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ROYAL COMMISSION INQUIRY INTO LABOUR DISPUTES

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HEARINGS HELD AT TORONTO

VOL. NO.

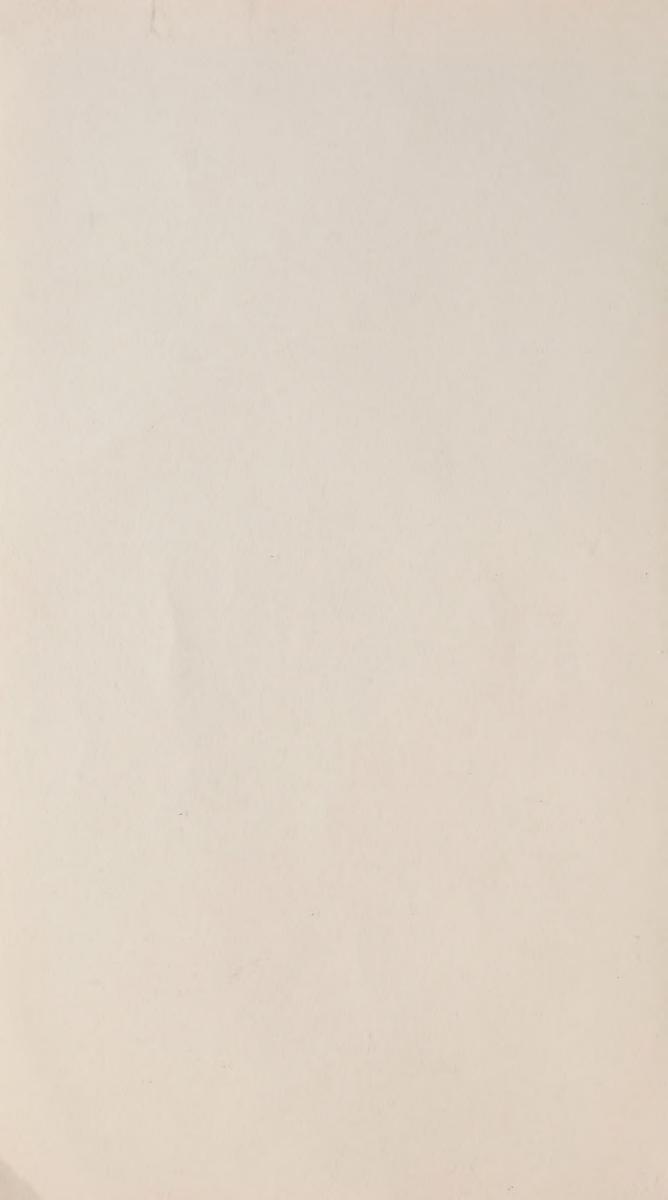
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DATE

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Official Reporters

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1 IN THE MATTER OF The Public Inquiries Act, R.S.O. 1960, 2 Ch. 323 3 4 IN THE MATTER OF an Inquiry 5 into Labour Disputes 6 BEFORE: The Honourable Ivan C. Rand, 7 Commissioner, at 123 Edward Street, Toronto, Ontario on Friday, May 19th, 1967. 8 9 10 11 E. Marshall Pollock Counsel to the Commission 12 13 14 15 16 APPEARANCES: 17 His Honour, Judge President, The Association B.J.S. MacDonald of Municipal Police Governing 18 Authorities. 19 Mr. Stewart 20 Mr. Latten Ontario Police Association Mr. Gilmour 21 Mayor Campbell, 22 Scarborough The Ontario Municipal Mr. George Noble 23 Mr. McDonald Dunbar Association C.E. Onley, Q.C. 24 25 26 27 28 Nethercut & Young Limited, Official Reporters, 48 York 29 Street, Toronto, Ontario. Per: F.J. Nethercut.



---On commencing at 10:00 A.M.

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MR. POLLOCK: The Association of Municipal Police Governing Authorities, His Honour, Judge B.J.S. MacDonald, President.

opportunity to briefly look & your submission. The proceedings of this Commission are extremely informal, and we hope that everybody feels free to talk and discuss these matters and related subjects. We only ask that you all speak one at a time. The manner of presentation is up to yourself. If you want to read the brief that is fine; if you want to talk about other points in it in whatever manner you choose, that also is fine.

I am here rather unexpectedly as a pinch hitter today.

His Worship, Magistrate Bick, the Chairman of the

Metro Toronto Commission who is our immediate past

president and was Chairman of the Committee which we

set up to prepare this brief and make submissions to

you has, unfortunately, been taken ill and has been in

hospital for the past week, so that I have had to take

over this job today and Mr. Healey, who has been

very helpful to us in the preparation of the brief,

in fact it is his preparation, he too is tied up today,

but we have Mr. Stewart, his associate, along and we

hope he will take part in our discussions this morning

and be of some assistance to us.

I want to say first of all, on behalf

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of the Association, how much we appreciate the opportunity of making these representations to this distinguished Commission. We are here partly as a result of the suggestion made to us by the Deputy Attorney General because we had made similar representations to the Attorney General by way of suggestion that there should be statutory enactments or amendments to carry out the ideas that we were presenting, but he pointed out to us that you were undertaking this general inquiry into labour relations and that it might be felt by you that this was an area that you should inquire into at the same time. He did not wish to presume on your report by saying yes or no to our suggestions in the meantime. So, the obvious conclusion we came to was that we had better make our representations to you, sir, and hope that we could get some assistance from your report which might be favourable to our view.

We know that some of the things that
we are proposing, however, are not agreed to or not
entirely endorsed by the Ontario Police Association
which represents the rank and file of our municipal
police department. I have taken it upon myself,
however, to keep them informed of the fact that we
intended to make such presentation to the Commission
in the hope that they would perhaps appear, and I see
some of them here today, and be prepared, if you wish them
to do so, to make comments or criticism on what I may
have to say because I do not come here with any
arbitrary demands or proposals. These are things I
think that can be worked out as a result of discussion,

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reasonable people getting together and trying to come to conclusions that are in the best interests of the policing of municipalities.

I have had, personally, some 14 years experience as a member of the Windsor Police Commission and during that whole period we have never had any acrimonious or unpleasant dealings and we have had the utmost co-operation and concern, interest in good policing and .what is in the best interests of the policing profession.

years as the first chairman of the Ontario Police

Commission and I found the same responsive attitude

in my dealings with the Ontario Police Association and

with the Chiefs of Police Association. So I want to

approach this thing from that point of view and solicit

the give and take and helpful discussions on both

sides and what is the best way to go about these

problems.

What we have to suggest today, we don't say is the final answer by any means to what ought to be done. These are the problems, though, that concern us and we hope that they may lead to rational solutions that will improve matters.

Our organization was set up in, I think it was 1962, while I was Chairman of the Ontario Commission, and it was set up with the blessing of the then Attorney General with the idea that it was necessary to have an association to speak on behalf of what has been described as the local governing

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authorities in police matters in municipalities. The police forces were represented by a strong and well-organized police association that exists on a provincial basis, having local associations in the various municipalities, and the chiefs of police had a strong organization. This chiefs organiza tion has not only been concerned with the interests with of the chiefs themselves, but/law enforcement problems generally and they are affiliated with the Canadian Chiefs of Police. Both of these bodies have been in the habit of making representations to the government and to the Attorney General as to legislation and how matters should be handled. But, strangely enough, up until 1962, there was nobody to speak for the one organization that had the statutory responsibility of governing in police matters and for the maintenance of law and order in municipalities. There seems to be an opinion that it is the chief's job to maintain law and order and that he is under statutory obligation in this regard. While that is true in a sense; as a top officer he is an independent official and it is his duty to independently and impartially enforce the laws, on the other hand the Police Act makes it the duty of the Board of Police Commissioners to maintain law and order in the community and they do that, of course, through the Chief and through the Department. Similarly, it is the duty of the municipal council and through its police committee to do the same thing, but it is spelled out in specific form in the Police Act so far as Boards of Police Commissioners

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I have no doubt that you, sir, are familiar with the make-up of Foards of Police Commissioners in the Province, but I think perhaps I ought to point out some distinctions that exist that may be of importance. In all the municipalities except Metropolitan Toronto, the Boards of the Police Commissioners consist of the county judge or a county judge, and a magistrate or some other person. In most cases I think it is a magistrate, but in a number of cases it is some private citizen who has been appointed and the third person who represents the elected representatives of the community is either the Mayor or the Reeve. The fact that the majority of the members who frequently are appointed fudicial officials somewhat inhibits them in speaking on these matters as freely as if they were in the political field, and for that reason I would just as soon have had someone else doing the talking today but it turns out that I have to do that.

In Toronto, however, they have a special arrangement and the Commission in Toronto consists of Magistrate Bick, who is named as a magistrate, but who does not perform judicial functions as such, and a County Judge, Judge Ian Macdonnell and the Chairman of Metropolitan Toronto, Mr. Allen and the Mayor of Toronto - this year, it is not the Mayor of Toronto, it is one of the elected representatives who is chosen, I believe by the Metro Council. It is the Mayor of Scarborough now, but up to now it has always

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different set-up there than they have in the other municipalities and Magistrate Bick is a full time

Chairman of that Commission.

The Toronto Department, of course, is very much larger than any other municipal department in the province and has problems that are peculiar to it. I might say that in some of the other parts of the province I don't think we have encountered some of the problems that they have here in Toronto and for that reason, in looking over this brief I find that the first parts of the brief, the submissions with regard to bargaining pertain more to problems that have arisen in the City of Toronto than perhaps in other parts of the province but, at the same time, they point up the need for giving consideration to these problems. If they have arisen in one place they may arise in another. I would like to read the brief, if I may, and if it meets with the convenience of the Commission, I would like to start when I get to the detail of things, with supervision excluded on page 5 and then go back to the detailed matters that are referred to on page 3.

MacDonald reads brief down to "....with respect to municipal forces"). There were some amendments introduced to the Municipal Act this year which will relieve, if they wish to take advantage of it, the municipalities under 5,000 from the responsibility of maintaining their own police forces which will mean if they do take

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advantage of it.

that position then the Ontario Provincial Police or

some other municipality having a police force may take

over that duty. There has been some confusion about

the effect of this legislation and I was pleased to

learn this morning that this was merely permissive

legislation. It will be left to the municipalities

themselves to determine whether they wish to take

(Judge MacDonald continues reading brief down to "....to the Ontario Labour Relations Act").

This is a very vital difference which means that the Police Association is not a labour organization and may not be affiliated with a labour organization and may not go on strike. So that there are very clear distinctions here between the two types of labour relations.

(Judge MacDonald continues reading brief down to "....that is quite foreign to industrial labour relations"), and I can't emphasize this too strongly as being applicable to police.

this morning's paper that some of the labour unions are making representations or wish to, to the Toronto Board of Police Commissioners with regard to what they consider to be too active law enforcement on the part of the police where strikes are involved, so that you immediately see that there are places where the duties of Chief and of the Board of Police Commissioners may be contrary to that of the views of trade unions and that it is important that these bodies and that the

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police departments be kept out of these conflicts and not in a position where they are siding with a particular point of view and under the pressures that would exist to cause them to ally themselves, for example, with the trade union involved if they were members or connected in any way with them.

(Judge MacDonald continues reading brief down to "....rather than strikes").

If I may, I would like to turn over

(Judge MacDonald reads from page 5 of brief down to "....Deputy Chiefs of Police"), and as previously stated, the Chief and Deputy Chief are excluded from the bargaining unit.

(Judge MacDonald continues to read brief down to "...to constitute a separate association"), and this, I believe, consisted of about 75 persons.

(Judge MacDonald continues reading brief down to "....from whom they are estranged") and this is something that surely ought to be corrected by legislation. Either they should be given the right to negotiate if they wish it or it should be clear that the association should not continue to have responsibility for negotiating on their behalf.

MR. POLLOCK: Do you make any sub-

JUDGE MacDONALD: I am going to come to that in a minute in the next paragraph. I want to say something particularly about that.

(Judge MacDonald continues reading

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brief down to "....from membership in police associations").

I would like to point out at this stage that, contrary to what might be supposed by recent legislation, the civilian employees of a police department are now considered as members of the Association targaining unit, so that the police now bargain, or the Association, on behalf of civilians as well as the uniformed and other police.

THE COMMISSIONER: What would be the confidential capacity generally?

JUDGE MacDONALD: I am speaking in that regard from my own experience. We have an inspector who is a personnel officer, and he acts as a confidential advisor to the Chief in dealings with grievances, problems that arise in the police department with individual personnel and acts also as our advisor in these same matters and in connection with negotiations of contracts.

MR. POLLOCK: Condiential in the labour relations area?

disturbed at the possibility that this man, to whom we confide our thoughts as to what ought to be done and how it ought to be done, may be a member of the association and attend the meeting and be badgered by other members of the association into what I would regard as betraying the confidential communications that he has received. I can say this, that I know of inspectors and senior officers who belong to

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Associations who will not attend meetings of the

Association for that very reason because this gives an opportunity to aid disgruntled policemen who happen to be there to go after the inspector and take him apart and abuse him publicly in a manner which I think is most detrimental to discipline. I don't think that this should be permitted in a semi-military organization where discipline admittedly is of very great importance.

Those are the people, the Secretary of the Police Commission, whatever his rank might be, and if there were doubts as to who were in such positions I think that the legislation could provide that the Ontario Police Commission which is now being looked to as a sort of independent tribunal to determine police matters could make that decision if there was a conflict as to who might be included in that. But I am thinking of people who are in these relations particularly in the field of labour relations and the management of personnel.

Now, so far as other people are concerned, let me say this, that this is not an unprecedented Provincial proposal. The Ontario/Police Force has already adopted this method and in order to do so has to do so with the approval of the Attorney General, that's the Ontario Provincial, because he has general jurisdiction over that force through the Ontario Police Commissioner and through the Commissioner of the Provincial Police.

At the present time, the senior officers of that unit have been formed into what might be regarded as a commissioned officer class and they, I understand, are

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excluded from the negotiating and bargaining unit of the Ontario Provincial Police Force. They have a separate bargaining unit of their own which is associated, I believe, in a general way with the Ontario Police Association but not in the same way as the municipal forces. So that this principle has been recognized in the principal police force in this province outside of the Metropolitan Force and it is difficult for us to understand on what principle that difference should exist, that what is good for the Ontario Provincial Police Force for various reasons must surely be so for municipal forces.

MR. POLLOCK: With the exception, I suppose, sir, that Provincial Police has a larger number of that class and they could function as a unit in easier than/a small police force.

right there, Mr. Pollock, on a point that I wish next to come to because I recognize this as one of our problems and the same thing prevails in Toronto. If you have a body of 75 people it is quite different than having 2 or 3 inspectors in an isolated police department somewhere. I am not critical in this respect of the Attorney General for going slow in deciding what should be done about this, because it does raise some practical problems, but I am coming to another matter which I think may help in the consideration of this. Let me say, frankly, at this point, that there is a difference of opinion among ourselves as to what the rights of this group should be if they are separated.

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from the Police Association. It is the view of some - and I know Mr. Bick holds this view, at least I think he does - that if the inspectors up, for example, are taken out of the bargaining unit, then they should have no bargaining rights at all: they should be exactly the same as supervisory personnel in business and industry.

Now, I am in some doubt as to whether that would reflect the thinking of that group of officers. I know it doesn't in our own Windsor force, that they, I am told, would be glad to see this separation, but they feel that they should not be left stranded without some body to speak on their behalf in regard to working conditions and pay, and I am sympathetic personally to that point of view because I don't believe in this complete parallel between police employment and industry at all. If a man is working for the Ford Motor Company in a supervising job and he is not happy about the pay he gets he can quit and his services are available to the competitor or somebody else.

THE COMMISSIONER: Have there ever been any unions of those groups?

JUDGE MacDONALD: No, there never have. That is the senior officers, you mean?

THE COMMISSIONER: Yes.

JUDGE MacDONALD: No, because they haven't had any authority to leave the Association.

THE COMMISSIONER: I mean, in

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JUDGE MacDONALD: I am not able to answer that question, sir. I couldn't say.

THE COMMISSIONER: There is no reason in the nature of things why they shouldn't?

JUDGE MacDONALD: No, not at all, but I see the somewhat different position of an inspector who says, "I don't think I am getting enough money and the Commission won't give me any more. What am I going to do? I have only one choice, to quit. Where am I going to go? I have been working for 20 years as a policeman. Can I get a job in another police department? That is a practical answer. Legally, there is no reason why he couldn't be appointed as an inspector and go from the Windsor to the Hamilton Department if there was a vacancy there, but in the nature of things that would not work because there would be such an amount of feeling in the Hamilton Department about bringing in an outsider and inserting him right into the promotional level at the middle that it would not be feasible as a practical proposition. Now, it is different with Chiefs and Deputy Chiefs and it has become almost customary in some departments to go outside of the force to get a Chief and sometimes a Deputy Chief but I don't know of any cases where anybody has gone outside to bring in a staff sergeant or a lieutenant or somebody like that, or an inspector. So the man is left without any real protection at all in his profession.

The answer to that may very well be, "Well, the Commission is not going to be unfair to a

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man in that position". I think, in all justice, people should/be left completely at the mercy, however, of the good nature and understanding of an employer in this situation, particularly if the other members in the police department have powers of arbitration to compel their employer to meet them half way or all the way in their demands as to pay and working conditions.

This, for example, is the situation in Great Britain. I was over there a couple of years ago and had an opportunity to talk to their people over there and they have a system of bargaining on a national basis. The Police Association, I think, representing all policemen from sergeants down, belong to one organization, then there is an intermediate group that includes the ranks above sergeant up to, I think, inspector, and there is a third group representative of the chiefs, deputy chiefs and superintendents and each of these bargain separately with regard to their pay. This is done on a national basis so that the sergeant in Southampton gets the same pay as in Scunthorpe or somewhere else, although it seems to me that is hardly a proper way to do it and I don't think it would work in our province.

THE COMMISSIONER: They must have more uniform conditions generally in England to permit that.

JUDGE MacDONALD: I know the members of the Metropolitan Force in London don't think that this is a fair arrangement at all, because the duties in London are so fantastically different than what they Asolications (hat position in this position of the chart of the proton of the capture and descript at the capture has a supply at the coordination of material and a local state of the capture of the coordination of the chart of the coordination of the chart of the coordination of the chart of the chart

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would be in some little place like Rye on the south coast.

THE COMMISSIONER: There is no reason why they couldn't have differentials?

only difference that there is at the present time though in London is that there is a living allowance or housing allowance given which is apparently an obligation in England in regard to the police which is higher in London than it is outside because of the higher cost of rentals and so forth. But I have in mind something rather different in our own province.

The point here is that they co have at each of these levels independent bargaining rights.

I don't know that there is much more that I wish to say on that, but I do think that it is an invidious situation in which to put senior officers to have speaking on their behalf and trying to impress the Police Commission with the particular problems and responsibilities of a senior rank, to have speaking on behalf of those people constables who may be rookie policemen who may have been in the force one, two or three years, but because of their outstanding ability perhaps in negotiating and in a semi-policital way in the Association itself, have reached positions of authority in the bargaining unit. These individuals, let us face it, exercise a considerable influence. Now, mind you, in most departments the president of the Association and the senior officers are seasoned police officers, but there is no reason why they have

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experience in police work who emerge into the governing and executive positions in a police association and these people can exercise considerable influence on a police department and challenge and almost exert greater influence in police matters than their senior officers to whom they should be giving ready response by means of instruction and so forth and I think that this all-inclusive arrangement is one that does not make for good policing and does not make for good discipline and harmonious relationships.

THE COMMISSIONER: You have national chiefs organizations, haven't you?

JUDGE MacDONALD: Yes.

THE COMMISSIONER: They meet each year?

JUDGE MacDONALD: Yes.

MR. POLLOCK: You spoke orally with reference to inspectors, but the brief speaks of detective sergeants, ratrol sergeants and staff sergeants.

Pollock, again I am trying to think of objections the Police Association might have to this proposal, and I would be glad to hear them because I can't see, apart from the small reduction in membership and financial contributions that would result from taking out from the inspectors up that it is going to make a very great deal of difference. It does lessen, perhaps, in their opinion the prestige value of their organization if it doesn't represent everybody, including the senior officers but I have difficulty in thinking what other

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Toronto, Ontario 1 serious objections there are. You now have mentioned 2 one which I think has some merit in that regard and 3 they are going to say, "Well, if you are going to draw the line at inspectors, what is to prevent you later 4 coming along and saying, 'Well this should also include 5 staff sergeants, lieutenants and even patrol sergeants, 6 7 and certainly detectives or detective sergeants ?" Because detectives and detective sergeants exercise 8 a supervisory control as well. Well I think - and I 9 am expressing here a personal view - that what we are 10 concerned about is the senior supervisory personne., 11 inspectors up, people who might be regarded as assistant 12 inspectors or deputy inspectors or lieutenants if they 13 are in a secondary command position up but we are not 14 at this moment, and I don't think we should be concerned 15 with staff sergeants and sergeants or detective sergeants, 16 and if you wish a parallel in this situation we have 17 the same in - let me take the area I am more familiar 18 with and that is the army: We have a commissioned 19 officer group who are supervisory and so forth and 20 that is from the lieutenant up, but below that is the 21 rank of sergeant-major and the rank of company sergeant 22 major and staff sergeant and other non-commissioned 23 officers who have very wide powers and are very 24 important personalities in the army. In our Windsor 25 department, we have a sergeant-major but my thought 26 would not be that he would be included or that the staff 27 sergeants would be included or the detective sergeants, 28 but they would belong to what would correspond to the 29

non-commissioned officer group of the army.

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MR. STEWART: Mr. Commissioner and Mr. Pollock, I think this brings to a point here one of the distinctions between a smaller police force which would be normal in Ontario and, for example, a Metropolitan Police Force and the labelling of a man as inspector in one municipality may be the same, for example, as the staff sergeant in Metropolitan Toronto and it would be wrong, perhaps, to draw the line at a It is really the type of function the man is exercising and his own position in respect to discipline. I think that would be the difficulty. I was just looking here while you were discussing this with His Honour and I have here the Ontario Police Commission chart of salary scales and it lists all the various levels of police supervision and authority and, just by looking at the salaries while that may show perhaps geographic differences, it will also show, I think, a functional difference in the particular job exerci sed by that police force.

MR. POLLOCK: You would almost be in the same position as they are in the Labour Relations Act in determining the appropriate unit, so to speak. You would have to analyze what functions these people who hold the position of staff sergeant or whatever perform they are called, to see whether they are the type of supervisory personnel that you think ought to be excluded.

JUDGE MacDONALD: Yes, and our proposal here would be in the event of conflict in this regard that this again is a matter that the

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could depend on a careful analysis and one that would be fair throughout because we have no uniform rank structure in the various departments and this is one of the things that we have been urging the Ontario Police Commission to do, to establish a uniform structure because we have in Windsor, for instance, lieutenants and other departments have no such officers at all. There would have to be some definition of the function of a lieutenant and so forth all along the line.

THE COMMISSIONER: Why are these particular titles used? Is it for the purpose of justifying remuneration?

JUDGE MacDONALD: It may be. I think it depends a good deal on the philosophy of the local commission and the chief. If they feel that they want to label a particular job -- the reason we have lieutenants is because we feel it is desirable to have somebody in the position of an assistant to an inspector and during the inspector's absence he automatically takes over and they divide responsibility so that rather than call him assistant inspector and have that name bandied about as a common name, we picked the rank of lieutenant and it splits, so to speak, the salary levels between the next lowest which would be the staff sergeant and the inspector.

MR. POLLOCK: You have not changed inspectors to captain yet?

JUDGE MacDONALD: I don't know if they

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have done that in some of the municipalities or not.

They may have.

THE COMMISSIONER: You may have a police force in which you could exhaust the titles.

JUDGE MacDONALD: You could have a Gilbert and Sullivan arrangement.

MR. POLLOCK: You could always go into petty officers and those kind of things when you run out of army titles?

JUDGE MacDONALD: Yes.

Now, what I have to say next may have some bearing on the problem we have just been talking about because as you very powerfully point out, Mr. Pollock, the problem of having a separate organization for two or three inspectors might be a bit difficult, but that brings us to the question: Who are they going to be bargaining with - the local commission, or is there going to be some wider area of bargaining?

"...in the long run the commission"), and I can foresee that in the next ten or fifteen years there will be far less municipal police forces than there are at present, and I can see the time when only the larger municipalities will have their own independent forces and that the Ontario Provincial Police will be giving the policing to the smaller municipalities, having the capacity and the resources which are needed to do policing in modern conditions. That is the principal reason why this development, I think, is warranted.

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(Judge MacDonald continues reading brief down to "....competent and impartially"), and I want to put an asterisk near the name "impartially".

(Judge MacDonald continues reading brief down to "....throughout the province"). Why I make that comment about "competently" is not that the persons chosen to do this work are lacking in personal ability, but it is a practice .now as far as it can be not to name as the Chairman of the Board of Arbitration some judge or some magistrate or other person who is a member of some police commission elsewhere because it is felt that he might be emabarrassed in his own commission by having to join in a decision on some other force that would be contrary to what he is doing in his own home territory and that he might be suspected of having interests or attitudes because of this close association with the police commission which might be contrary to the views that he might hold as a more impartial person, but the net result of that is then, that you have a chairman who perhaps has had no experience in a police commission and doesn't understand the problems. I think that this is not a thing that you can just leap into without some background of experience.

try to have some basis of relativity in considering the scope of the work, the magnitude of it, the number of employees throughout the province? I mean, you might have one small district in the north completely out of line with a similar district or slightly larger or slightly smaller in the south.

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JUDGE MacDONALD: That is the very point that we are objecting to, and let us speak frankly about this. I know that the Ontario Police Association won't challerge this, at least I feel they won't. Bargaining is carried out not only on a local basis but to some extent as a result of consultation with and advice from the Ontario Police Association; in other words, the Police Association as a whole are interested in advancing certain objectives in regard to pay throughout the province, in regard to fringe benefits and other matters, and they advise their local association, "Now, we feel that you ought to ask for this sort of thing this year", and then another municipality, that local association is going to ask for another thing. Now, we, as members of the Police Commission, see ourselves being tossed around and manipulated as a result of these arrangements on a provincial basis where an arbitration board is to be persuaded that now a certain fringe benefit is the thing they want, all right, they get it, and then/the other municipality, "What we want now is an increase in pay", or some increase in off-duty pay or something of the sort. next year they switch over and the next year they point out as a precedent what happened in municipality so and so which went to arbitration last year and in which they got such and such a pay rate and then the other where they got such a fringe benefit and this works very well. We have been rather naive and stupid about the whole thing and the butt of this method of doing things which we do not criticize. I imagine if we were

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in that position we would do the same thing.

MR. POLLOCK: It makes one feel a whole lot more secure in your home to think you have that ability on the police force?

JUDGE MacDONALD: Don't make any mistake, nowadays we have very able people on the police force and I am delighted - not to discover because I have always known it, but it is getting better all the time. On the other hand, I think in all fairness the police should be to a certain extent competent.

THE COMMISSIONER: To a great extent there is co-operation and it is becoming more necessary every day.

MR. POLLOCK: If there is a disparity between wages in one region and another, is there a trend for a flow from the lower wage areas to the higher wage areas as there would be in industrial cases? Of course, a policeman, if he wants to be a policeman, is relatively limited in the scope of his activity in this province at least in moving in that same line of work. If he doesn't want to be a policeman in Toronto he has to go to some other place to be a policeman.

JUDGE MacDONALD: That is right, unless he wants to go out of the thing entirely.

MR. POLLOCK: That is right.

JUDGE MacDONALD: Let me take an example, and I would ask your indulgence for referring to Windsor situations so much, but I want to talk about something I do know something about and where I have had experience. In the last two years in Windsor,

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we have suffered a very great loss in personnel. We
have lost over 40 officers in two years, which is a
large number in a force of only 325. This was due, we
discovered, largely to the fact that Windsor has become
an extremely active place industrially and wages are
very high there, the cost of living is very high as
compared with other municipalities, and these police
officers with good training and good background have
been able to go into industry and get better jobs at
better money than we have been paying them, and they
can work on better hours and have their weekends free
and evenings free and so on in plant protection jobs
and so on. We simply had to meet that challenge or
we would have had a dwindling police force and we have
been losing some of our very best men. So that we had
to have a general shake up in a great many matters
including our system of promotion and our pay, and we
came to a settlement of pay for the next two years in
Windsor last December, I think it was, with very little
argument because, quite frankly, we were as much
interested in improving the pay conditions of the
members of the force as they were for our own interest,
if for nothing else.
The bod to give

THE COMMISSIONER: You had to give them a new status really?

JUDGE MacDONALD: That is right.

THE COMMISSIONER: A higher status

and that involved a greater opportunity to - well, I should say, to add to their self respect?

JUDGE MacDONALD: I, personally, have

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always been of the opinion and I have repeated it publicly, that police pay has got to go up in keeping with the professional standards which we demand of police officers these days. In most of our departments we send them away for special courses. Police college is now providing means of educating them, grading them, finding out who are the good officers and the weak ones. We expect professional competence and performance from them and if we are going to do that, we must pay them good money. I think in some municipalities now we are approaching the level where the pay is appropriate to the requirements and needs. In other departments, it is not possible to do that for financial reasons and because I think too the thinking of local governing authorities, if I may say so, is not keeping pace with the needs of the present time. Perhaps in a small municipality where the police problems are not important, there are few arrests made and few real problems, it may not be found that they need that kind of professional policing that other municipalities do, but if that is the case then they ought to have available at their disposal that kind of professional resource and that is the reason in the smaller communities, for one thing, that I think the Provincials are going to be moving in and taking over because they must be available to do this when you are combatting, for instance, organized crime which can strike in any part of the province. For that reason, we would like to

suggest that arbitrations should take place before a

permanent board rather than by these ad hoc arbitration

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boards which sometimes are organized for a particular arbitration and never come into existence again and the chairman of that board may be only sitting on one of these for the first time. I can say that I have seen arbitration orders in which things have been included in the arbitration order which, in my view, should never be the subject of arbitration at all. There are certain fields which, in the view of a great many of us, should not be subject to arbitration. They are matters for management, concerning discipline, promotion, the manning of automobiles. I can give you a whole list of things which in some cases have drifted into arbitration settlements or orders and that just confuses the whole matter somewhere else because somebody comes along later and says, "Well, judge so and so, who was the chairman of a commission somewhere dealt with this matter in this way and we feel that we ought to have the same thing and if you don't give it to us we will go to arbitration and if we don't get judge so and so as our chairman, we will get some other person who has a similar point of view", which confuses the whole matter of police relations. Our proposal would be that where it comes down to a case of arbitration that this should be determined by a board on which is represented, as at present, persons on either side, first of all, the local commission if you wish and the local association. Now, this perhaps is a personal view, but I think there might also be represented the Provincial Police Association, I mean the Ontario Police Association and our organiza-

tion, if you wish, somebody to represent us so that the overall provincial picture is represented by the two organizations in that way and the local industry is represented by the local people and that presiding as chairman should be some independent person with knowledge and experience.

The purpose of this would be not that we get a uniformity of pay throughout the province but that pay would be geared to local conditions, law conditions, law enforcement conditions, the problems of law enforcement in some municipalities whether they are small or whether they are great, local competing economic conditions.

THE COMMISSIONER: It would be a relative viewpoint?

JUDGE MacDONALD: That is right. But the same principles would be enquired into and be the basis for making a differentiation from one place as to another and we would get away from this competing jigsaw, or whatever it might be called ---

MR. POLLOCK: Whipsaw.

JUDGE MacDONALD: Whipsaw and which goes on at the present time and which is not fair, I think, to the taxpayers or to anybody else because we are not approaching these things on a rational basis. We are doing it on a competitive basis and, by the creation of precederts which we use for arguments then to support a particular point of view.

In England - and I go back to this because I don't think we should ignore the experience

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of other countries particularly where they have similar police departments - I don't think since this system was put into effect three or four years ago, there has been an arbitration, that they have been able to agree in their boards, in their negotiations, as to what the pay should be. But where there is, then there is provision that this go to arbitration by an arbitrator appointed by the government and this arbitrator, I think, is assumed to be some person of the high court level who would be presiding.

There is a further provision that the government can veto an award by an arbitrator for any reason it sees fit and can send it back to be done over again. So that there is a measure of protection there politically against unfortunate results from the individual who might be presiding and feels strongly on one line that the government feels is not warranted There would not be any objection, in a practical way. it would seem to me, to a similar provision here. somebody said, "Well, what protection have we got, this czar is going to be sitting there and really I hope I am self-determining what the pay is going to These people are on either side of him, they are going to vote in favour of their own interests and it is the chairman himself who, after all, is going to have to decide it." That doesn't necessarily follow, and I think if you appoint co-operative people or people of goodwill who are open to reason, who are not there to get elected or anything of that kind, they will be persuaded by the argument that appears

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before them that this does warrant certain treatment favourable to one side or the other, but the protection against arbitrary and unfair decisions by a chairman could well be given to the Attorney General or the government by way of an appeal and he can take political responsibility it seems to me, of saying, "Well, this has been gone into but we disagree with the decision of the arbitrator in this case and we are sending it back to be reviewed on a certain basis just as courts of appeal send cases back to be re-tried, or they could take an independent position and say, "This is what we are going to do", and be subject to all the political pressures that there might be on both sides.

THE COMMISSIONER: As a matter of interest, do you know if they have taken any positive steps in England towards unification of the whole police forces in the country?

JUDGE MacDONALD: They are doing over there what is being attempted here and that is by eliminating, first of all, the small police department and a large number of those have been taken over in the last two or three years and their intention is to go further.

THE COMMISSIONER: The weaknesses of having no bond or association appeared in that outstanding theft case.

JUDGE MacDONALD: Quite.

THE COMMISSIONER: Where you were dealing with independent forces who were not interested very much outside of their own field.

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JUDGE MacDONALD: And very jealous forces too of their own privileges and responsibilities. That, I think, was the shocking thing that through these myriad police forces the whole thing fell down. I can say, so far as Ontario is concerned, in the last few years we have made tremendous strides to overcome that sort of thing. We have a system of inter-communication at the present time through Telex which, if a crime is committed in one municipality, all the forces can be immediately alerted to that through Telex communication and the chiefs and senior officers have bi-monthly meetings to discuss common problems and how to meet them and so forth and while I think the objective is right that eventually the smaller departments should be amalgamated into larger ones where they have proper resources, there is tremendous improvement in policing in Ontario at the present time. This is necessitated, apart from the growth of the population and the increase in certain types of crime, by the threat of organized crime in this province and we have got to, whether we like it or not, say, "We don't care about your local prejudices and prides and so forth, there is a greater issue involved here and we have got to find some method of dealing with it and keeping organized crime out of this province". So that at the present time, with what we hear going on in the Province of Quebec in organized crime and in the United States, this is a very present problem and it is in the interests of all people and all citizens of this province to see that we get efficient policing by

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educated, if you can, but at least loyal police departments whose integrity is beyond question and who are
operating under proper discipline. It is absolutely
essential that these things be done.

Then, to continue (Judge MacDonald continues reading brief down to "....their essential public duties"), and I have just made a little list of some of the things that are sometimes felt to be within the realm of bargaining. The organization of the force itself, how it is to be set up: The tours of duty of the officers: The assignment of their duties: the rank structures, the promotional policy and individual promotions, arms and uniforms, the manning of police cruisers whether it be a one man operation or two man operation, equipment, whether it is to be motorized or not, and, of course, discipline, which is covered by the regulations. Now, mind you there are some of these things on which I think it is wise that there be consultation with the Police Association. In our own department, while we maintain the right to decide absolutely ourselves what the promotional system is to be, we only settle on it after the fullest discussion with the Police Association so that we can get their point of view and I think if it is going to work harmoniously and well, we must have the entire support and agreement of the Police Association prior to bargaining in order that a thing like that will work out. We have invented, if you like, some promotional plans in our own department in Windsor which we think are contributing

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1 to the efficiency of the department and, at the same time, are maintaining the support of the members of 2 3 the police force as good things; in other words, providing opportunities for people with ability to get ear-4 5 lier promotion than they otherwise would and not 6 being tied down necessarily to a seniority system 7 but at the same time giving weight to seniority because it indicates experience with problems of the police and 8 9 an ability to operate as a policeman with a clear 10 record over certain periods. Then, we put it on 11 evaluations and things of that kind and the police 12 themselves who want to get ahead in the profession 13 and are willing to work, do a job and take courses, 14 do the best they can and welcome this opportunity of 15 getting ahead and not being blocked off by some 16 incompetent man ahead of them who is just holding up 17 all the others below who have the ability and desire 18 to get ahead. 19

MR. POLLOCK: Do you have a provision for a grievance if one man feels that he should have been promoted over another?

how that works. We have what we call a points system in which there are 100 points possible. Thirty percent of these points or 30 points are represented in seniority, so many points for every year of service up to a maximum of 30, no matter how many years. I think 15 is the maximum number for which you get any benefit in points for seniority, a maximum of 30 points. And then so much for evaluation by senior

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officers of the man himself, so much for marks on examinations that may have taken place and for qualification at the police college. For example, we don't promote anybody until he has satisfactorily passed an examination for promotion either in our own department or at the Ontario Police College and this automatically knocks out some men who never will be promoted because they have not passed and can't pass the examinations but if they do, then they go on this promotional system and it is organized in accordance with points right from the top to the bottom and this is revised every year and it is published. Any man who is dissatisfied with his position on the list or thinks that he has been discriminated against in his personal evaluation is entitled to go to the personnel officer and ask to see the records and to find out why and to satisfy himself that he has not been unfairly treated according to the rules of the promotional system. The last time this was done, we had half a dozen who objected to their position and in two or three cases it was found that their objections were well taken and the thing was corrected. In other cases they were satisfied they had been fairly dealt with and they had no further complaints.

Now, that has resulted in a feeling on the part of the members of the department that every one of these points is vital to them because it means that men with perhaps ten years experience in the department are being promoted to sergeant, whereas otherwise they may have to wait until they have been

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there 15 years or more until they could get ahead so they jealously guard these points. If there are any bad reports, disciplinary reports, points are taken off and, bango, they go down on the list. So it tends to develop a keenness and an interest in their jobs and a sense of responsibility all the way through. We are very pleased with the way it has been working out, but our principle is not to do arbitrary things, to try to find the rational basis for whatever we do and to explain that to them if there is any objection and give them an opportunity to be heard.

MR. POLLOCK: And if they are not satisfied with that, that is the end of the matter?

JUDGE MacDONALD: That is the end. there is nothing more that can be done. We are not of the view that there should be constant grievance procedures on matters that are not -- where it is simply a matter of an interpretation of the agreement. If you are going to have agreements that can be settled by some fellow outside the city and outside of the department who has no other responsibility, we think that is entirely wrong. If it comes down to, "What does this agreement mean?" that is a different matter, then that could be arbitrated but not if somebody comes along and says, "Well, I have been taken off a certain job and put on something else and I am making a grievance". He can be heard up through channels to the chief if he wants to on that, but once the chief has dealt with it so far as we are concerned, we say, "That is it, if we are going to

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maintain any discipline the chief has got to have some authority over the people under him and he has got to decide what ought to be done in certain instances".

MR. POLLOCK: In your system, do the members of the force get an opportunity to determine what points ought to be allocated for what, or is it a system that is devised outside of the bargaining?

JUDGE MacDONALD: It is devised outside of the bargaining. This is not a part of bargaining. We had until two years ago, 36 points for seniority. We got the Association in and said, "Now, we feel this should be reduced to 30". There was objection to that. The Association itself is divided about things like that because the older men obviously want to maintain more of a seniority and the younger men want to do away with it so they can get ahead faster but unless there is a strong objection to it they say, "Well, this is what we are doing". Now, we got it down to 30 and I don't mind saying that we would like to get it lower than that, but we are not going to do it in a one-sided jump. We want to bring our people along with us if it is going to work well so that the time will come when they too are convinced that this should be done.

Mr. Wilson, the Superintendent or head of the Chicago Police Department, who is one of the great experts in the United States on policing feels that seniority should only count for 5 percent. I don't agree with that because I think seniority is more important than that, but I don't think it should Antaile months and a second of the second of

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get to the great extent that it does in some departments. I think that we are approaching what is a proper weight.

THE COMMISSIONER: That goes right back, surely, to the duty and the responsibility of administering law?

JUDGE MacDONALD: Yes.

We agree, of course, that things like pay, fringe benefits, special allowances while off duty, overtime, insurance, pension, sick leave, hospital, medical, vacations and holidays - all those things are legitimate matters for bargaining and arbitration, if necessary.

MR. POLLOCK: The first group you listed you say are improperly included?

JUDGE MacDONALD: Yes.

MR. POLLOCK: You mentioned uniforms.

I don't know whether there is any provision for uniform allowances.

JUDGE MacDONALD: Financially, yes,

I think that is arbitrable and, furthermore, I think
that members of the Association ought to be given the
opportunity - I don't know that it should be a
bargaining matter, but we give them the opportunity,
of course, to comment on changes in the dress. Windsor
has a much more humid and higher temperature during
the summer than in most parts of Canada and, for that
reason, we do not require the strict conformity in
uniforms in the summertime in Windsor that they may
in other parts of the province. We have to find a
comfortable uniform that can be worn under our

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conditions. We couldn't expect them to wear high collars and so forth during the summer, and we don't even at any other time, but this only contributes to the efficiency of the police. As long as the men present a reasonably smart appearance on the street and are creditable representatives of the community that is fine.

Now, going back to matters that I skipped over on page 3.

MR. POLLOCK: Perhaps we could take a short break at this point.

JUDGE MacDONALD: Yes, certainly.

---Short recess.

JUDGE MacDONALD: To continue, sir, with the reading of the brief at page 3.

(Judge MacDonald reads brief down to "....who may attend", down to "....and bargaining is the most restricted").

I think this is directed largely at the intervention in what is an internal adjustment and negotiation of professional persons whose interest is not primarily in the police force itself but is purely on a professional basis of obtaining some particular advantage which they have been employed to get. The matter tends to be taken away from the representatives of the police themselves or the police by the legal counsel, particularly if he takes charge and does all the talking, bargaining and negotiating

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and this ends up, if it is going to be done in this way, with the police commission having to resort to the same method so it becomes a legal argument between two lawyers which can go on interminably as we know, unless there is somebody to settle it in which neither is giving way and the parties affected are not being given the opportunity or duty of trying to negotiate and settle their grievances in the usual give and take manner.

THE COMMISSIONER: This is at the stage of bargaining?

JUDGE MacDONALD: Yes, this is in the bargaining itself. And this has to do with the provision in the Act in Section 27 3(a) where the word "Legal" or "Other counsel" is involved. It is thought that the expression "or other counsel" should be taken out and there should just be left a "legal counsel" and that they should be there in an advisory capacity.

MR. POLLOCK: I suppose in view of the composition of most police commissions they are afraid to be overwhelmed by the legal reasoning and argument on behalf of the commission processed by the county court judge and the magistrate?

JUDGE MacDONALD: Yes, I agree that that is a handicap in these negotiations. I don't know what can be done about it. The county judges and the magistrates sometimes have to take some pretty straight talk that they are not accustomed to but there is nothing much that can be done about it

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but, on the other hand, they are in a position to hand out a little too. I don't think any great harm is done in that regard but I think it does deserve a degree of courtesy and opinion which does not always exist in the rather rough language that is exchanged between negotiators in an industrial dispute.

THE COMMISSIONER: Well, has there been much experience with counsel carrying on their action objectionably from the point of view that you stated?

JUDGE MacDONALD: To come back to that, of course, the very fact that a county judge or a magistrate is on the commission somewhat militates against the counsel who are used to judicial discipline extending themselves too far but I can't answer to that and I don't know whether Mr. Stewart has any information because I think these are problems that are largely concerned with the situation perhaps in the larger municipalities.

MR. POLLOCK: When you talk "legal or other counsel" industrial relations counsel type of thing, rather than a lawyer?

JUDGE MacDONALD: I think that was the thought when that was put in because the expression "counsel", they felt, ought to be defined if it was going to mean other than a lawyer, so that this does open the door to somebody who is not a lawyer who might have experience in negotiating.

MR. POLLOCK: The professional

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JUDGE MacDONALD: Yes, or perhaps connected with the provincial association. Mr. Stewart can probably add to this.

MR. STEWART: On your last comment what we are trying to prevent here is the professional labour organizer trying to take over negotiations on behalf of the association whatever it may be.

MR. POLLOCK: If we can talk about the trade union movement, other than the police association, do they come in, do they get assistance, for example, a steel worker bargaining?

MR. STEWART: This, from my limited experience, has not occurred yet. I think it is more that this particular provision is directed towards what they fear might occur, what is seen as perhaps arising from professional unionism among the police ranks for the reason which has already been set out this morning.

MR. POLLOCK: In the Police Association itself, there are members of that association who are full-time members that do not operate in the police function anymore, they may have been policemen at one time?

MR. STEWART: Yes, this has occurred.

MR. POLLOCK: And they are, like any organization, looking to professions to do professional jobs?

MR. STEWART: That is right.

THE COMMISSIONER: Well, there can be sort of a labour bar develop in any of these associations

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as they have in Australia. They became first-rate advocates. They knew what they were talking about they knew the facts and some people have a natural aptitude for that.

MR. STEWART: I think this has occurred in Ontario unless I misunderstand your reference, Mr. Commissioner. I think there is a very excellent labour bar in the legal profession in Ontario and I think, though, the point here is to keep the negotiations removed from outside relationship with the trade union movement which the Act itself expressly excludes.

THE COMMISSIONER: I don't like to extend that word "counsel" to go outside of the legal profession.

JUDGE MacDONALD: It is perhaps not a happy choice of language.

(Judge MacDonald continues reading brief down to "....approval or objection by secret ballot").

This precis I am reading has practical difficulties. When you start talking about the last offer of the governing authority, what is the last offer? You have several last offers which are going to have to be taken back in each case to the membership. You can't convene these meetings every day, especially in a large department, and take votes and ballots, so I think that there ought to be some defining needed there if you are going to use an expression of this sort.

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MR. POLLOCK: It is easy to know what was the last offer, but it is not easy to know what is the last offer.

JUDGE MacDONALD: That is right and, furthermore, there is this problem that might just as well be recognized that the governing authorities are reluctant to make any last offer because they fear that if they do that will be taken as the floor for any arbitration proceedings later and it will not be a question of whether the association is going to get the last offer or something less, but how much more they are going to get.

THE COMMISSIONER: That is the whole trouble.

JUDGE MacDONALD: The governing authorities very seldom in my experience do make a final offer for fear that that will be the situation and while they are willing to extend everything to go that far, they are not prepared to go one step further but if they go that far they know they may have to go further.

MR. POLLOCK: I suppose it is difficult to conduct collective bargaining in the same mode of circumstances without prejudice?

JUDGE MacDONALD: I don't know if that is possible. We have talked about things like that but you don't have any professional disciplines to enforce any understanding of that kind and if people have a meeting and they say, "Well, now this is an offer that has been made without prejudice",

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what does that mean to 2,000 policemen? They know that the Commission is prepared to go so far and they are going to talk about that, and it will come to the arbitrator's ears one way or the other.

THE COMMISSIONER: Don't the negotiators on the part of the police have authority to conclude an arrangement?

JUDGE MacDONALD: Generally speaking, they do, and that is the reason it is thought that sometimes these matters should be taken back. Now, I am not speaking of any personal knowledge and I hope anyone here doesn't take from what I say that I have any knowledge of the matter at all. I am simply trying to think of an instance where this problem may have arisen. Negotiations are going on in Toronto at the present time and it has been suggested that the Commission has made what they consider to be a very generous offer and that this could be regarded as a last offer that they are serious about but not prepared to go beyond. They might well think that a large percentage of the police association might be prepared to accept that offer, but they are not being given any opportunity to do so because the bargaining committee is under no obligation to consult their membership to find out whether or not they will accept it and, therefore, an arbitration that might otherwise be avoided may have to take place.

I am citing that simply as a suppositious situation.

THE COMMISSIONER: Certainly, the

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employers' view on the whole is that the employees ought to have the right to say" That is it and that is the end of it."

MR. POLLOCK: I suppose if you leave it to the Commission to determine what is its last offer, it gets one chance to say, "All right, give this to your membership", and it will guard it very jealously as they do when you only have one chance to do anything and until they are convinced or at least think that the general membership will accept it and you say, "All right, here is the offer we want you to put to your membership,, and if they don't accept that then we will try and negotiate some more and then there is more obligation for you to refer this to your membership".

JUDGE MacDONALD: That, at least, would indicate the opinion of the membership in a general term on that very offer. I would think that that having been indicated and adversely to the acceptance of the offer that the Commission would have any right to object beyond that point beyond anything the bargaining committee might see fit to do.

Now, we had a problem that has arisen in our own department. We had concluded all bargaining matters except with respect to pensions and retirement age and our Association has been recently in the last couple of months dealing with us on this matter. They wish to lower the retirement age from 65 to 60 but they also wish to receive the same pension at 60 that they would at 65. This, financially, produces a very

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heavy obligation so far as the municipality is concerned and, on the other hand, so far as the members of the Association are concerned, a great many of the senior officers - and I speak not only in this regard as to rank but also as to years of experience, don't wish to retire at 60 if they are not going to get the same pension that they would get at 65 because they have made their commitments and, in fact, they don't want to retire on pension at all between 60 and 65, because they are counting on a continuance of their present income to take care of financial obligations that they may have assumed in the buying of homes and other things, continuing on to age 65. Now, suddenly, it has been proposed on their behalf by the Association that they be chopped off and denied this opportunity of continuing their income to 65.

We did something which, perhaps, we didn't have any legal right to do but we said, "This is a matter of such vital interest to all police officers that we want to hear from both sides on this matter", and we did hear representations on behalf of a sizeable number of the members of the police department that didn't go along with the general association's view on this matter and were bitterly opposed to the idea of lowering the retirement age.

If it went over a period of time like ten years from now where people could make adjustments, they had no objection. Having heard that, we came to the conclusion that we couldn't hear from them again, after all we have to deal and bargain only with the bargaining

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committee, representatives of the associations and they will have to settle in their own ranks what representations are going to be made on their behalf by the bargaining committee. If a minority is discriminated against in that way, have we any right to go behind that or to enter into an interference with it in any way? And yet, we feel that as a matter of discipline in the force and esprit de corps that this is so vital that we, perhaps, ought to have some right to do this.

The Association didn't object to our hearing from this Committee. They were present and heard what was being said, but it did create difficulties in the Association, I have no doubt that these other people were saying, "Well, if you don't abide by the rules of the Association and the majority you had better get out, we are the people to bargain on your behalf" - I am not saying they said this, but they are entitled to say it. We fear that they might say, "From now on, we can't deal with it"; we would have to say, "From now on, we can't deal with you because you are not members of the Association". But here is a problem and I suppose it could be required if it came to arbitration to determine what the vote was in the Association on this matter so that the arbitrators could say, "Well, quite apart from what you ask for, we don't think in all the aspects of this matter in the circumstances that we can go along the with it, especially on account of/division of opinion which exists in your own association". But

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this is bound up to some extent in the desire of getting the matter referred back to the Association to be sure what the general opinion of the membership is.

MR. POLLOCK: That problem is common in the ordinary industrial relations area as well, the difference between the interests of the older workers and the interest of the newer workers, the younger workers?

JUDGE MacDONALD: Yes.

(Judge MacDonald continues reading brief down to "....by the members of the police forces"). Now, what is meant here is that in most municipalities the bargaining, I believe, goes on directly between the three members of the Board of Police Commissioners and the Bargaining Committee, but the Police Commission doesn't appear to have any authority to set up any bargaining committee of its own or representative to bargain on its behalf as the association does, and it may become quite an onerous responsibility for judges and magistrates to be tied up in very lengthy negotiations and bargaining matters and in a City like Toronto where they have five members who have many other duties, the Chairman of Metro Council and the Mayor of the City, a judge and two magistrates, -incidentally, when I was referring to the membership of the local Police Commission, I omitted to mention Chief Magistrate Klein, who is also a member, as well as Magistrate Bick, but here you have people who have got responsibilities and these negotiations can go on for days.

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Apart from that, some right ought to exist to have a committee or representatives appointed on behalf of the governing authority. I think there are risks involved in this both ways, but I think it should be clear, of course, that eventually and finally the whole Board and Commission should be involved in the final stages of the thing so that there is an individual responsibility of each member of the Board to be aware of the problem and the decisions that were being taken. And that we just don't turn it over to a city personnel officer, for example, to conduct all these negotiations on our behalf. If we do this we might just as well say that the Association be permitted to do the same thing and the whole thing becomes an artificial matter not involving the democratic process and the representation of opinion on the two bodies.

brief down to "....should be reciprocal"). It is a rather odd section of the Police Act which says that the Commission must bargain in good faith once a request has been made for that as if there is a high degree of likelihood that they would not bargain in good faith, and it must be provided by statute that they do, but the Association can always be guaranteed to bargain in good faith, there is no such requirement being made so far as they are concerned. If there is any need for it on the one side, I can assure you there is a need for it on the other.

MR. POLLOCK: Of course, there are

Apart of the community of the contract that the community of the governing authority. If the community beauty of the governing authority. If the community beauty of the both ways, the indiction afout it should be aleasy of on this both ways, the indiction afout it should be aleasy of on this would be attential. And the indiction are inset on the under the contract indiction and the contract indiction and the contract indiction of each meabon of the frage to be aware of the product of each meabon of the frage to be aware of the product and the contract indiction and the contract of action and the contract of the con

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no penalties attached to that anyway?

JUDGE MacDONALD: No. It is, I think, a matter of rhetoric.

(Judge MacDonald continues to read brief down to "....in which the Association enjoyed little or no support"), and that, I think, might be connected up with point number 2, in which there should be some right to have matters referred back to the membership in regard to arbitration. So whether shey do represent the majority of the membersor not, they would be required to determine whether their views represent the views of the majority.

This, I think, presents some difficulties, but if the language "and continues to represent" were inserted there, then I think it would necessarily mean that there should be some method of determining when they cease to represent the majority. I don't know of any cases where this arises as a practical problem, but if it did arise in any particular instance, I should think that the proper procedure would be for the Police Commission to say, "We don't think that this bargaining unit represents the majority of the units of the police force any longer", and, therefore, we make an application, say, to the Ontario Police Commission to enquire as to whether they do.

MR. POLLOCK: Who are the parties to the agreement?

JUDGE MacDONALD: The Police Association and the Police Commission.

THE COMMISSIONER: They would have to

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THE COMMISSIONES: "Deer to the house in

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form some similar association?

JUDGE MacDONALD: Yes, they would.

THE COMMISSIONER: Why can't they

control that through the appointment of the officers?

JUDGE MacDONALD: You mean the

Association?

THE COMMISSIONER: Yes.

JUDGE MacDONALD: Yes, I would think so. I don't know exactly how this arises. It may be completely hypothetical, but I would not think there would be any harm to add to the language of the statute that they continue to represent a majority and if any unusual circumstance arose where it didn't, then that could be enquired into and determined by the Ontario Police Commission.

THE COMMISSIONER: The only other thing they could do would be to get another slate of officers?

JUDGE MacDONALD: I would think so

That, Mr. Commissioner, concludes the submissions that we are making at this time, and I want to express our appreciation of the very courteous hearing that we have had. I have with me today, Reeve Shields of the Township of Tisdale, who is one of the Vice-Presidents of our Association, and Mr. Montgomery, who is the Assistant Secretary of our Association, as well as Mr. Stewart.

MR. POLLOCK: How often is the recourse to arbitration taken, in what percentage of control that tornugh the chyphanic of the office. F

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cases? Have you got any idea?

MR. STEWART: We were interested in that and we thought the Commission would be interested in it too. We have been endeavouring to find it out, but without success. There simply is no statistical information at the present time kept of this. If the Commission was interested, I know that enquiries are under way now and we will endeavour to supply that information for you.

MR. POLLOCK: We are particularly interested in it, because of some of the comments that arise in relation to arbitration and its effect on collective bargaining.

MR. STEWART: Yes.

MR. POLLOCK: It is suggested that it stifles collective bargaining.

THE COMMISSIONER: There has been nothing suggested to conclude difficulties after conciliation then, either arbitration or strike?

If you forbid strike, then there is only arbitration left?

MR. POLLOCK: I think there is a step that comes between in some compulsory arbitration statutes, in the hospital one which provides for conciliation. Yours does not have any conciliation, it just goes right to arbitration. Those that have conciliations say, "We ought to have the right to arbitration", and some of them who have the right to arbitration say, "We ought to have the right to conciliation", so maybe it is a case of somebody else's

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area will be interesting because that is a new concept of arbitration.

THE COMMISSIONER: But, you have a

that is a better example that the statistics in that

JUDGE MacDONALD: I was asked this question so far as our force was concerned and we have not had an arbitration in the last ten years.

We had two arbitrations in the preceding five years, but none in the last ten years.

MR. STEWART: I don't know if it would

be a valid comment to say - this is whole legislation we are dealing with here. There has been historical right to go to arbitration, you might say. I am not sure that the statistics - and I think the Commission wishes it in regard to other industries, shall we say, more in the economic industries - I am not sure that the statistics are as relevant because I think perhaps there has been this long-standing concept of negotiation between the police commissions and the associations and there has not been the resort, the inability to reach the agreement, and therefore the resort to arbitration.

MR. POLLOCK: That, I think, makes isn't the point that it / automatic and it isn't automatic in the hospital disputes where it was suggested it was going to be.

MR. STEWART: I think if I may say so,

THE COMMISSIONER: But, you have a counsel or other counsel, legal or otherwise. Well they, to some extent, play the part of conciliators,

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don't they? Why are they present if they don't? 1 | 2 They make suggestions of this, that and the other? 3 MR. STEWART: Yes. 4 THE COMMISSIONER: Or modifications? 5 MR. STEWART: I think legal counsel 6 in any type of negotiation, labour or otherwise, would 7 try to present a dose of reality into the sense that reality often brings about agreement, and they are 8 9 conciliators to that extent. 10 THE COMMISSIONER: Your bargaining 11 here, isn't it somewhat different than the ordinary 12 bargaining, inasmuch as you have other persons present, 13 advising counsel, and so on? I have not seen many 14 cases in which you have had legal counsel taking part in the original negotiations. They may have them, 15 16 but their role has not been emphasized in any way. 17 MR. POLLOCK: I don't know if Mr. Stewart will agree, but I think they are certainly 18 19 present and actively engaged. MR. STEWART: Yes, I would confirm 20 21 that. MR. POLLOCK: There is one other 22 point that you may not be able to express any views 23 on in relation to the Association, but it is a general 24 question of the police function in labour relations. 25 I don't want to put anybody on the spot here because 26 you obviously have not had an opportunity to discuss 27 this among the Association, so a simple inability to 28

answer will satisfy me. But the concern is that has

been expressed by the various parties involved in

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labour relations difficulties that the police role is, at best, nebulous and some say detrimental to their interest. The unions say the police act on behalf of management except when they are resisting the injunction question and they say that the police are there to assume the function: Management say that the police don't take an active role and don't perform their function. I wondered if there has been any general consideration in the Association or with your own experience, sir?

JUDGE MacDONALD: In regard to that, I can't express any opinion on behalf of other members of the Association, but we have had labour disputes in Windsor where the police have been called upon but not too many. It is conceivable that conditions can get completely out of hand. A good many years ago when the Ford Motor Company was on strike the streets were blockaded with cars and people couldn't get through even lost control of their own cars being massed on the streets and so on. There were outbreaks of some violence in connection with it. think that anybody could contend that the police are trying to help any side of the argument in getting into that picture and trying to restore some order so that the rest of the citizenry can go about their affairs, and if people are being physically molested, that they should be protected. I was Crown Attorney at the time and I prosecuted in a case involving some strikers who broke into an electrical plant at the Ford Motor Company and did, I 've forgotten whether

labour celections difficulties that the entire party is, of best, no chous are some any neutricary of that chares the erest. The entire and one and one and one incomes no bearing of management exactly the management exactly that the chart is any one of the policy of the infinite incomes to an and they may that the policy are policy to a control of the chart and the chart of the control of the chart of the

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it was up to a million dollars worth of damage - it was a very large amount anyway, hundreds of thousands of dollars worth of damage, by turning off the electrical equipment and freezing certain pieces of machinery that required servicing and so on, and these people, the police were on hand and they dealt with it as best they could and these people were eventually prosecuted with not as much success as one might imagine in the circumstances. They should have been, but they selected jury trial, and the results were that a good many of them were acquitted. But that is one of the situations in which the police had to intervere.

In the teamsters strike a few years ago, the police had to intervene there. These chaps were then charged with interfering with the police in the performance of their duty and were tried by a magistrate and convicted. This is only in the effort to maintain order and to prevent violence at the start and to stop it and to prevent people from being injured, not taking part one way or the other. If an injunction has been obtained, though, and there is a court order that certain things must be done and the sheriff endeavours to do his best to enforce that order and requires assistance, then the police may be called upon to take part in the matter, but I think in most cases the police departments are anxious to avoid becoming involved in these things in any way at all.

MR. POLLOCK: There are, in some jurisdictions in the United States - and I think it

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has developed to some extent in Toronto - a labour squad or a group of specialist policemen who handle or look after strike situations and one of their roles, or at least an important function, is explaining to the participants really what they can and what they can't do before it happens. Some of them pass out papers and some call a meeting and say, "All right, this is what you can do and this is what you can't do". In those ways, a lot of the misconceptions of "rights" are avoided.

Very good labour relations, I would say, in Windsor, and have had for some years now. They have not had a serious problem in that respect and consultation has been part of the explanation for it. The leaders in labour are responsible individuals and are as much concerned with their public image and the observance of the law as the rest of the public and if a discussion can take place in which the difficulties and the requirements of the law can be discussed, in most cases they try to avoid conflict of that kind that would otherwise develop.

THE COMMISSIONER: Well, thank you very much, Judge MacDonald and gentlemen, for this discussion.

MR. POLLOCK: Thank you, gentlemen.

I think some representatives of the Ontario Police

Association are here, and might care to make some

comments this morning. Mr. Latten and Mr. Gilmour.

MR. LATTEN: First, may I say, Mr.

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Commissioner, that we did not anticipate addressing this Board this morning, but it is indeed a pleasure for us to appear before such an honourable and distinguished Board.

We were not aware, as the Police
Association of Ontario, exactly how many submissions
the Ontario Municipal Police Governing Authorities
were going to put before this Board, nor were we
generally aware of whether the terms of reference of
this commission would deal with a statute such as the
Police Act. We would, without perhaps prejudice to
any position we would take in our submission, like to
make just some comments on the submission of His
Honour, Judge MacDonald.

I would like to say first, that the

Association I represent represents approximately

12,000 police personnel, both police and civilian in

Ontario, which represents approximately 97 percent

of the total police population in Ontario - and that

includes the Ontario Provincial Police.

Association has the very greatest respect for Judge
MacDonald, both as to his position as President of
this Municipal Governing Authorities and a Commissioner
on the Windsor Police Department, and the late Chairman
of the Ontario Police Commission. Our men have always
placed a great deal of faith in Judge MacDonald and
some of these remarks this morning are made on his
submission. I noticed in his overtures to this Board
he did not in every case say that he was in complete

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support and some of the remarks he made were not from his personal knowledge.

Dealing first with bargaining which has just been put before the Board, it seems a strange system indeed where a police association. limited generally to three policemen to bargain, must go before a board of police commissioners or a municipal council and this Commission usually comprises the head of council who very often is legally trained and a judge of the county court and a magistrate of the local jurisdiction. These policemen are not legally trained, they are the direct employees of that board and why they would not be represented by legal or other counsel I do not know. It seems insignificant that counsel should be available to the Commission, they have got legally-trained people on it, but why should not the policemen have legally-trained personnel to assist them where necessary?

why they should have a lawyer in attendance. In many, many cases, the Association, the men of the Department were badgered by the local council. I can think of one occasion during bargaining sessions, the men were compelled to come in full dress uniform and stand at attention in front of a table such as this and bargain. It was almost impossible for them to carry out any efficient bargaining in that atmosphere and without proper notes and without the proper decorum that should be evident at a bargaining session.

MR. POLLOCK: That does not occur

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today, though, does it?

MR. LATTEN: It doesn't occur today, simply because in the last two years the Police Act was amended to allow "legal or other counsel".

MR. POLLOCK: You mean this type of thing occurred within the last couple of years?

MR. LATTEN: I would say this occurred in a good many cases since the year 1944. Men were given absolutely no bargaining rights. There were bargaining sessions, but there were no bargaining rights, and the Police Act was changed within the last few years to allow legal or other counsel and there was a very good reason to have legal or other counsel. In smaller forces, sometimes it just isn't possible to get an independent solicitor in an area. He is a member of council, he is a member of committees of council or he represents in a great many cases the people who are on that commission. Consequently, the only way to get legal assistance would be to bring it in from a nearby town or use other counsel.

I have been associated with this particular organization since 1952, and I can assure this Commission that there has never been a member of the labour organization take part in direct negotiations for the police department. There have been solicitors in some cases and, on occasion, myself, have appeared while I was a police officer - I was a police officer in Metropolitan Toronto for a number of years, I am not a police officer now - and I represented them in the main, generally, in an advisory capacity, I

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never took part in any of the discussions although it
has been alleged, I know, by some members of the
municipal governing authorities that I have participated.
This is, basically, not true, I have not participated.

Counsel is most necessary in bargaining negotiations. A great many times the men were under some duress, they could not argue perhaps as strongly as they should on some matters, simply because it was not practical to argue with the local judge who might be, and in some cases is, a very dominant person in that municipality and on some occasions the judge of local commissions sit on numerous boards. I am thinking now in Niagara Falls of one judge who sits on six or seven different commissions, and it makes bargaining very selective when you have two members of the commission sitting on various departments because what they give one department is almost standard for that area: they just won't give anything to any other department, even though circumstances might be quite different.

I think the legislature, in their wisdom, when they gave police associations the right to legal or other counsel, did so with the wisdom that there was a handicap to the men appearing at bargaining sessions and that handicap has now been evened out where an association, if they have trouble, will go and get a solicitor or some other counsel to sit in with them and that tends to mediate the two parties and it keeps the bargaining at a much better level.

The police commissions generally, and

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there are a great many who are very good commissions and who treat the men very well - and Windsor, I would say, would be number one in the Province of Ontario, but there are commissions who - and his Honour Judge MacDonald made some observations on that - where the members of the force might wish to settle and I could only suspect he was perhaps referring to Metropolitan Toronto and the bargaining committee would not accept the offer of the commission, but it is significant to know that the Chairman of that Commission, Mr. Bick, sent a personal letter to each member of the Metropolitan Toronto Police Department outlining the Commission's offer and, in my respectful submission, this was done for no other purpose than to indicate to the men what the offer was, as if the bargaining committee had not had the decency to inform the members of what that offer was. Now, it was quite clear that in Toronto, the men were aware of what the offer was and they did not choose to accept it, but for one side to send a personal letter to every member of the force indicating what that offer is and then taking the position that that offer is without prejudice, the obvious answer would be to address any of their offers they are sending out by mail and simply mark on it "without prejudice". This would stop it, I would think, from going before a Board of Arbitration, but certainly I can only anticipate what Metropolitan Toronto are going to do, that when they go before a Board of Arbitration they are going to use that letter as evidence before the Board and I

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think rightly so.

MR. POLLOCK: I think that His Honour Judge MacDonald just pulled Metropolitan Toronto out of the air, so to speak, as an example that there was bargaining going on and he said he didn't have any particular facts about this case and he just took that as a particular example of a type of situation that could arise. I don't think he suggested that the bargaining committee in Toronto was not putting forth the position to the members.

MR. LATTEN: I fully realize that

Judge MacDonald in all of his remarks was only indicating not from his personal knowledge, but perhaps from some information he was given, but I thought that should be clarified with this Commission.

He also made reference in the bargaining sphere to the fact that the bargaining committee of the Police Association did not have the authority to come to some agreement. This could only manifest itself by the number of times that a commission or a council or a committee of council bargained with an association and made an offer and this offer was then subsequently rejected by the municipality itself. There have been three instances of this within the last three years where this has occurred. In Newmarket, the men accepted the offer of a committee of council and when it went to council the council said, "No, we are not paying them that money" and subsequently the matter had to go to arbitration and the Chairman of that Board of Arbitration, His Honour Judge Revel,

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MW. DAMBER: I fully restince

Judge MacDonald in all of the remarks was cold, toler the new around his personal anguledge, bur palat within the some information be west place. This is a little that it is a little and all the did denoted by the did of the cold of t

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took some time in addressing his remarks to the New-market Council whereby if they appoint a committee they should back up that committee when they bargain.

This has just happened recently in the Town of Aurora, where negotiations were concluded, the men thought they had a legitimate offer, they expressed their opinion to the men and said they had a raise and the offer was rejected by the municipality.

In Pembroke, which was probably the most important case that we have become involved in, the Board of Police Commissioners made an agreement with the men, signed an agreement, but the Town of Pembroke refused to ratify it and told the Commission in so many words that they would not pay any money under that agreement to the men. This matter has gone on now for some three years, which hinges on another point that His Honour brought up of job security for policemen. In that particular force, three men were fired arbitrarily as a result of the arbitration award, simply because the municipality wanted to cut down on the money of that award. So they automatically called in the last three senior men and dismissed them.

MR. POLLOCK: You mean the junior

men?

MR. LATTEN: They were junior men, but they were beyond the probationary period and the Police Act says a man shall not be dismissed unless he is found guilty of an offence and these men were found guilty of no more of an offence than receiving an arbitration award.

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THE COMMISSIONER: Is there nothing to settle the question of an agreement that can be rejected by the municipality?

MR. LATTEN: An arbitration award --THE COMMISSIONER: I am speaking of
an initial agreement that doesn't require arbitration.
I thought that was what you had mentioned.

MR. LATTEN: Yes, in this particular instance, the Police Commission which, by statute, is the bargaining authority for that municipality, made an agreement and signed it, but the municipality refused to ratify it.

THE COMMISSIONER: They have that right to refuse to accept it, the municipality?

MR. LATTEN: It is a matter of law,
I suppose, whether they have the right, but in any
event they have successively in the last three years
refused to ratify it.

THE COMMISSIONER: But, what is the legal position?

JUDGE MacDONALD: Mr. Commissioner,
I don't want to interrupt here, but I understand that
in that case the legal argument put forward by the
municipality was that the rate was to depend on what
the Ontario Provincial Police might pay; in other
words, they were abrogating their responsibility in
deciding what the pay should be for their policemen
by putting it as being dependent upon what might be
paid eventually to the Ontario Provincial Police and
the municipality took the position that they couldn't

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budget on an estimate of that kind and it was illegal. I don't think that they challenged the right of the Commission generally speaking to finally determine what the pay should be. As I understand the Police Act - and I have taken this position certainly in our own municipality - once an agreement has been reached between the police commission and the bargaining unit, that is binding on the municipality and if it goes to arbitration then the arbitrator's award is binding on the municipality.

THE COMMISSIONER: Well, if it is binding on a municipality in the first instance, how can there be any question of arbitration?

MR.LATTEN: I don't want to belabour the Pembroke situation before this Commission, but I would like to point out that this dispute was eventually resolved, or in part, resolved by the Attorney General appointing His Honour Judge Robinson from Haileybury to arbitrate this matter and his findings were that the men were to be paid so much money and, again, the municipality refused to pay that money and, consequently, they dismissed three men which amounted to approximately \$18,000 a year (the men were being paid around \$6,000), and this gave them enough money to implement the award of the Board of Arbitration and this, again, of course, was contrary to the Police Act that a policeman cannot be dismissed from the service unless he is convicted of committing one of the offences under the Code.

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once they have established the size of the police force they can't reduce it except on those terms?

MR. LATTEN: That is right.

The other point on bargaining His Honour Judge MacDonald brought up, was that it is difficult for a police commission - and I think we can appreciate this, that a police commission of a judge and magistrate who are overly taxed in a great many areas with cases before the courts cannot just afford to take a day off to negotiate, but I think on the contrary the law says that they are the ones who must provide this service and, in most cases, they are being compensated to provide this service. say that they would bring or appoint other members or have somebody represent them in negotiations would be almost converse to their suggestion that the association should not have negotiators appearing on their behalf. There is nothing in the statute law, the Police Act, that I am aware, that prevents a police commission from having a lawyer or other counsel there if they want and in a great many cases they do. I can't help but reflect back. In Toronto Township a year or two ago before they had a commission they hired industrial consultants from the Toronto area to do the bargaining for them, and that was a contravention of the Act because it says the municipality where there is a council or a committee of council should bargain.

MR. POLLOCK: Of course, in your particular case, the bargaining committee of the

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Police Association can change its representation. You don't have to be there, somebody else can be there as long as they satisfy the requirements of the legislation. Isn't that correct? Whereas, as I understand the situation, the whole commission has to be there at every session.

MR. LATTEN: Well, I think the whole commission, by statute, has to be there, but that is not in practice the experience. In Toronto, very, very seldom are the whole commission ever there where technically they should be, and I think perhaps that is somewhere where there is breakdown in negotiations that one member of the commission is not aware of the contract the other part of the commission has entered into. Sometimes confusion does exist. the people who are now assigned the duty of bargaining are not able to fulfill it because of the pressures of other duties, perhaps the answer is to appoint other persons who have the time to perform this function, or if the commissions or councils want to appoint some other committee there is no reason why they couldn't have legal people or labour people if they want them, but to say that they haven't got it so they should detract from our rights because they haven't got those rights seems to be a retrogressive step. Let us make them even, but not bring somebody back because it has taken almost sixteen years for the Association to get the right to have somebody in there other than in an advisory capacity.

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particular amendment to the Police Act went through
the Legal Bills' Committee of the Legislature, that
it was brought up at that time by the municipal
governing authorities that they didn't wish a lawyer
to have the right to speak at a bargaining session.

It was very pointedly made by the members of the
Legal Bills' Committee, "What point would there be in
having a lawyer if he can't speak?" Not only that,
it is very hard to find a lawyer who doesn't speak.

THE COMMISSIONER: That is nearer the fact.

MR.LATTEN: We certainly would have no argument with His Honour's submission that an association should represent 51 percent of the force and statistics which I quoted earlier where we represent almost 97 percent or 97-1/2 percent of the police would indicate that we do in every case indicate the majority. However, there could be, and perhaps there is an occasion - I am thinking now of one of the larger forces - where, after negotiations, perhaps half the men would accept the offer and lalf would not and there might be some question of whether that majority swings towards the 51 percent or 49 percent. We certainly have no objection to that type of legislation being enacted to dwell too much on matters of discipline because I would like to put in correspondence to this Commission, but in the last two years a police officer, I suppose, for the last forty years was finally given the right of every citizen in this country to have a lawyer when

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he is charged with an offence. It may seem insignificant to say that a police officer is charged with an offence against the Police Act, but one relates this particular statute to 50 offences, one of which is the coverall for almost any million other offences.

MR. POLLOCK: To the prejudice of good order and discipline?

MR. LATTEN: That is right. It seems insignificant, perhaps, to mention that a policeman can be subjected to punishment in that Act even as it is row, and it has not always been thus; the punishments have been mitigated a great deal in the wisdom of the Ontario Government in this new Police Act, but at one time for an offence such as smoking in a cruiser at night or something, a man could be fined heavily or reduced in rank, which might amount to, in some cases, thousands and thousands of dollars and yet he was denied the right of a lawyer to make his representations for him. He could have gone through a long tenure of suspension, he could be under considerable duress and his family, he might be under suspension and not be paid - there were times, of course, when it was not that easy to secure temporary employment and perhaps not even today for a police officer to get temporary employment when he is under suspension, there are household bills that pile up and children and one thing and another. He was under considerable duress and yet he had to go in and plead his own case, he couldn't have a lawyer. In the wisdom of the Ontario Legislature in the last two years, they gave

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us the right to counsel and the broadest sense of that word of counsel is one who advises and that can either be legal or some member of the Association, in some cases, myself, who could go in and perhaps defend this man or offer him some assistance in defence to the charge and at that particular time the Ontario Government kindly gave us the right to have an appeal to an independent body and that appeal goes to this Ontario Police Commission.

At that time there was a great furor among the administrators of the police force that they had lost control of discipline and that every policeman convicted of an offence would immediately appeal through the avenues of appeal and force the authorities to be down here at this Ontario Police Commission listening to appeals that were for minor, trivial charges. I think it is to the credit of the policemen of this province; there have been a great number of them charged with offences since this Act went through, but there has only been one appeal before this Board. That was in the last year, and that appeal, without very much defence, was upheld and the policeman was vindicated in the charge but out of, roughly, 12,000 police personnel, only one appeal has come before this Commission that I am aware of. That was the appeal of a Metropolitan Toronto police officer and that appeal was upheld, so I don's think the discipline problem is nearly as aggravating as what people would have police commissioners in some areas and municipal councils would have this

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Commission and perhaps the Attorney General believe.

MR. POLLOCK: I suppose that that also stands to the credit of the disciplining authorities then?

MR. LATTEN: That is correct. There has been a very great change in the type of trials and the way they are being handled. At one time prior to this enactment, the only available recourse for a policeman would be to issue on certeriorari and go before the Supreme Court. We did that on two or three occasions and I might point out, were successful in our applications but that is an expensive and very and long/drawn out procedure. This appeal level, we feel, gives the policeman final right of appeal which he should have as every citizen has the right of appeal and there is no reason why he should not have a lawyer to help him through the various stages that he needs to go through.

I think there should be very great evidence shown that discipline is deteriorating in the municipal departments and provincial departments to indicate that there is need of changes in this legislation.

The only other point that we would like to bring up at this time is the supervisory personnel. This is not a particularly new subject. It is one that has gone on for a great many years. I can think back to the early 50's where there was a very concerted effort to have the bargaining units, as they were constituted then, which included every

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1 policeman except the chief in the bargaining unit and 2 at that time the deputy chief constables were taken 3 of the bargaining unit and they were considered 4 the administration, supervisory or administrative 5 officers of the department. Since that time, as recently 6 as two years ago, certain associations, I would think 7 the Ontario Municipal Police Governing Authorities and 8 the Ontario Association of Chief Constables, prevailed 9 upon the Attorney General, the Honourable Arthur A. 10 Wishart, to effect legislation removing inspectors 11 from the bargaining unit. The Attorney General did prepare a bill with those submissions in it, which 12 13 would have removed inspectors from the bargaining unit. 14 We prevailed upon the Attorney General at that time 15 and showed him to his satisfaction and to that of 16 the Cabinet, that the inspectors and above did not want to leave the bargaining unit and after a great 17 deal of consultation with various parties in this 18 province, the Attorney General, in his wisdom, with-19 drew that bill and took that section out of it. That 20 is as close as it has come to ever removing inspectors 21 22 from the bargaining unit.

At present, we represent everyone up to deputy chief constable. In the case of Toronto, there are 76 inspectors or above who withdrew from the bargaining unit and, while it was hashed through the papers with editorials written on it of why these men pulled out of the association or how they pulled out, I think perhaps this Commission is aware that all those resignations from the association were

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directed to the association in a commission envelope and allegedly all on printed forms and it did not seem to be a voluntary resignation by the inspectors and above. It seems almost inconceivable that 76 men would write the same resignation on the one form and forward it to the Association. The Association of the senior officers formed up in any event, we did not oppose them, we told them if they wanted to go on their own they were entirely free to do so, but we always have had the feeling that this was not entirely a voluntary action. They applied to the chief constable of the Association for membership in that organization last year. I think I should draw to the Commission's attention that this Association refused to accept them into membership. They didn't want them.

Now, these inspectors in Toronto are now out on their own. They have no bargaining authority of their own. The chief constables won't accept them into membership in that organization and I suspect before very, very long that these inspectors will rejoin the local association.

MR. POLLOCK: Are they all the inspectors of Metropolitan Toronto Police Force?

MR. LATTEN: That is correct. They are not all inspectors. There are other ranks higher than that - inspectors, district chiefs, staff inspectors.

MR. POLLOCK: But, there are none left in your unit?

MR. LATTEN: In the Metropolitan

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Toronto Association, no. Technically, they are still members of the Police Association of Ontario. We have never received any resignations from them but we consider them non-members and we will do it until this year's convention when we either enact local by-laws prohibiting them from membership or they will be back in on their own accord. The men that I have spoken to, I don't think there is any doubt that they will be back in the Association.

MR. POLLOCK: Are you, in your negotiations, still bargaining for them?

MR. LATTEN: Still bargaining for them and the Police Commission of Metropolitan Toronto are returning that bargaining area that their offer included a raise for those inspectors. They agreed, if there is any bargaining to be done, those men must be represented by the Association: There is no other body that can bargain for them.

MR. POLLOCK: Is there any objection if these men in this area, that is, the inspectors, wanted to bargain themselves in a separate unit, is there an objection to providing in the legislation that they can form themselves into a separate unit and require the Commission to bargain with them in relation to the unit that they represent, inspectors and above?

MR. LATTEN: I think there would be no objection from us if the men wanted to do this, but a survey we conducted indicates that this is not the case

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ranks realize that splinter groups within an organization such as police personnel who are withdrawn from labour cannot be considered in any way a labour force in that sense, have got to stick together if they are going to keep their wages and working conditions up. I did note that Judge MacDonald indicated that the police service have got better men and I suggest to this Commission the reason that they have been able to get those better men is wages and working conditions have been elevated to such an extent - they are not as high as they should be, but they are certainly higher than they were and part of that must be attributed to the local association who has got their conditions up.

MR. POLLOCK: There is no doubt about that, but the point of solidarity and splinterization or fractionalization is probably more relevant to areas in which industrial action is required or where a strike is required where they physically have to stick together, but their terms ultimately if they can't agree are going to be governed by a tribunal, then it is reason that governs, not co-operation by numbers so that these people really could, if they wanted to, separate themselves and bargain collectively themselves, go to arbitration independently because there may be some differences in their ultimate responsibility to people below the rank of inspector and also to the people above the rank.

THE COMMISSIONER: Well, is that permitted under the present legislation?

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MR. LATTEN: No, it is not, simply because an inspector in Metropolitan Toronto is perhaps in the \$9,000 to \$10,000 level of salaries, whereas an inspector in some small force might be around the \$6,500 level. There is no uniformity in ranks. The duty of an inspector perhaps of a 6 or 7 man or 10 man force doesn't even relate itself to an inspector in the Metropolitan Toronto Police or an inspector in the OPP. They, in our submission. are not supervisory - perhaps they are supervisory personnel but they are certainly not part of management They do not have the right to hire, they do not have the right to fire or discharge: They only conduct the policy of the chief constable and the police commission who are the authorities of that force. The inspectors or the ranks close to that are certainly not the policy makers of the force, and the administrative officers of any particular group or institution have a part of management where an inspector doesn't have a part of management: He merely provides the area of supervision and he conducts the orders of the day which come to him from the chief constable or the police commission.

MR. POLLOCK: Does he not have any functions that would be inconsistent or that might be inconsistent with the brotherhood of unionism?

Is he not required to discipline in some way individuals?

MR. LATTEN: He can admonish or caution. He cannot effect any legislative penalty

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under the Police Act, nor does he in most cases. The chief constable either hears the case or appoints the deputy chief or, I suppose in some forces, an inspector could take on that function if there was not a deputy chief, but under the Act the chief constable can designate someone of the rank of an inspector or above but that, in practice, is not what happens. It is not what happens in Toronto. The men come downtown and they go before either a deputy chief or a superintendent: They do not go before an inspector on disciplinary charges.

MR. POLLOCK: Are there any functions in the investigation of personnel grievances or personnel advice or what we would call in the industry the personnel function that are exercised by the be inspector that cannot/exercised by others?

MR.LATTEN: I would think in some forces the inspectors do commit themselves to some sort of personnel appraisal. This would not be true in many forces, but certainly the larger ones, Ottawa, Toronto, Windsor and London. Our main reason, and perhaps it is a selfish reason, /to keep men who are the upper echelon of the department who are the men who have the service: presumably they are the men who have the intelligence and the know how of police work, we consider them a levelling influence in the Association. Where the men would like to do things which are not germane to the issue that is before them, where the men would like to get a little rambunctic s perhaps in negotiations, the inspectors

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being there, they are senior members of the force, most of them have a friendly attitude and the men have a friendly attitude towards them, they are a steadying influence on the men. They keep police work away from unionization where one man, a rabble-rouser, can get up shaking his fists and making all kinds of charges that the administration are perhaps far removed from any reality and the inspector usually can get up if he happens to be there and he can bring the other men around to thinking that there are other ways to do it, it can be done in a quiet, orderly fashion. is a steadying influence and, for that reason if/ no other reason, we think he should be included in the bargaining unit. He does not have to attend the meetings, it is optional on himself, he can make his own submissions to the Association and they are bound to take those submissions before the Board. In effect, he has a direct bargaining relationship and there is no reason in the world that in many cases it has happened where an inspector has been a part of the bargaining unit and we have had inspectors as directors of this Association. Most of the past directors and presidents of this organization are chief constables, or senior officers in departments now.

We do feel that inspectors should remain and we submit to this Commission that the Attorney General apparently felt the same way and I can think of attorney generals right back to the late Dana Porter who felt the same way because in every one or two years someone was making a submission

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to break up the bargaining units of the police associations and we are not allowed to affiliate with anyone else, we cannot belong to a trade union, we have not got the right to strike or conciliation or mediation and, frankly, we have to stick together. We are a unit all to ourselves and unless we are a unitized force we are going to start going backwards again. It has just been in the last two years since we have got this Police Act that we have had many of the rights that have been denied us since 1946.

As I pointed out earlier, I was not prepared to make any great submission to this
Honourable Commission, simply because we were not aware of all the matters that the Ontario Municipal Governing Authorities were going to bring before it, but we would like that opportunity to make that submission in writing and I can assure the Honourable Commission that I can put it in writing much better than I can here personally, and I hope you will forgive me if I have over-stepped the bounds, perhaps, in making these submissions to you and that you will be cognizant of that.

Thank you, sir.

THE COMMISSIONER: There is just one question occurs to me. Has there been any action on the part of inspectors which looked to separation by way of claim that they expressed themselves as desirous of constituting a new unit for themselves?

MR. LATTEN: No, they have not. Not only that, but by leaving the Association, they gave

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up a great many of the benefits they enjoyed, such as being a part of the group insurance and having representation on various pension committees and so on, and of course by withdrawing from the Association they became to the men's way of thinking, part of management and they just won't put them on these committees. It will cause, in time, friction, if they are not back in, but we are reasonably certain that not all of them, perhaps, but certainly a good many of them will come back into the unit unless legislation is changed. Generally speaking, they are happy. have surveyed the inspectors in this province and we find they are happy the way things are and they know if they go the way of the deputy chiefs there are a good many deputy chiefs in this province, both in the fire department and in the police department who because of loss of bargaining machinery are not getting as much money as, perhaps, the senior rank in the bargaining unit. They just have no one to go and speak for them and they lose as a result of it. There are a good many deputy chiefs who very much wish they could get back into the bargaining unit but they are prevented by the legisltion.

MR. POLLOCK: The only outward manifestation of the interest of the inspectors that might be different from your own was the 78 inspectors and above in the City of Toronto?

MR. LATTEN: That is correct.

THE COMMISSIONER: What do you say of the suggestion that there is a confidential relation

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1 there, a field of duty which is more or less a matter that rather disables them from being members of the general group?

MR. LATTEN: I believe police officers generally are members of a very large group and in police work, by its very nature, a great many things have to be confidential and there doesn't seem to be a great deal of breakdown of administration between the members of the force and the public and news Surely an inspector can go to a meeting two or three times a year and not be involved in any great hassle over departmental policy with the men. I have never heard an inspector take any abuse from a man at a meeting. In fact, in Toronto, I would question the advisability of any man getting up on the floor and making wild accusations at an inspector simply because he knows better, not because he is afraid of him, but simply because it is a matter of respect. I have never heard an inspector, in fact in Toronto a great many of the inspectors were heads of the various associations and they were elected there by the men--- The Athletic Association, the War Veterans' Association.

THE COMMISSIONER: But he would have confidential information which he would communicate, say, to the chiefs involving relations of individuals?

MR. LATTEN: Well, I think the chief constable has to have the confidence of the chief inspector and the inspector has to have the confidence of the chief constable, as do the men. Because they

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are in the bargaining unit to suggest they would break that confidence, I don't think they would break that confidence anyway. Every police officer, their duties are original, they can't be delegated to any particular duty, they are serving the country, the laws of the land, no one can tell them to make an arrest, there has to be certain grounds for it, there just doesn't seem to be a breakdown in confidence.

THE COMMISSIONER: Well, you will submit a written submission?

MR. POLLOCK:

MR. LATTEN: I will.

Association, Mr. MacDonald Dunbar, Secretary-Treasurer,

THE COMMISSIONER: Thank you.

The Ontario Municipal

and I see Mr. Campbell, Reeve of Scarborough Township, or used to be, I suppose Mayor now and a member of the Police Commission, and you have with you some other gentlemen that perhaps you could introduce and then we will start the proceedings. All I can say is that the proceedings here are very informal and we want

matters concerning the Commission and do it as informally as possible. Everybody can say what they want

and we can perhaps have a pretty good discussion.

to elicit as much information as we can about the

As far as the brief is concerned, it takes the form of a report, I suppose, that was designed for another purpose. We can talk around it or you can read parts of it or choose whatever mode of presentation you think would best suit the purposes.

MAYOR CAMPBELL: Mr. MacDonald Dunbar

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is the Secretary of the Ontario Municipal Association and Mr. C. E. Onley, Q.C., is our solicitor who acts for the Ontario Municipal Association and Mr. George Noble is a member of the Ontario Municipal Association and Personnel Director of the Metropolitan area of Toronto.

First of all, a little background on the Ontario Municipal Association. I expect you probably know about it, but just briefly the Ontario Municipal Association is made up of elected members of municipalities of Ontario, as well as the heads of departments, such as clerks, treasurers, personnel officers and department heads and people of that calibre. We have a number of divisions. The clerks and treasurers have a division of their own and they meet and discuss matters of their own: The personnel managers have a division of their own and they meet and the welfare officers meet and they have a division of their own. Generally speaking, we have one annual meeting of the representatives of the municipalities that are members and then a few executive meetings during the year. This year, I am President of the Ontario Municipal Association.

THE COMMISSIONER: Does that cover the whole province?

MAYOR CAMPBELL: We have in the neighbourhood of 325 municipalities now. It is voluntary as to whether the municipalities join us or not, but at the present time there are about 325 municipalities.

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themselves?

THE COMMISSIONER: Who have associated

MAYOR CAMPBELL: Yes, they pay their membership fee and become a member.

THE COMMISSIONER: How many are there in the whole province?

MAYOR CAMPBELL: 970 municipalities but many of the 970 are very small municipalities with very low population. I think it would be fair to say that we have the larger municipalities in the Ontario Municipal Association.

There is another association in Ontario which is just the Mayors and Reeves. That is, entirely elected people, and only mayors and reeves can vote at that convention and does not include staff people. The reason we got into it - and I might say that anything we are saying here today 1s speaking for the Ontario Municipal Association, I don't feel that we are free to make statements of our own here because this matter came up and we had resolutions submitted to our Association in 1964 and 1965 and, generally speaking, these resolutions were asking that we seek legislation for compulsory arbitration with municipal employees. We were able, at the annual meeting, to have these referred to a committee to make a study of it and in this brief you will see who we set up as the committee - Mrs. Montrose of Windsor, Dr. Crispo of the University of Toronto, Mr. Dinsdale, who has done a great deal of labour relations work, Mr. Little, the President of the Canadian Union of Public Employees,

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Mr. McKibbin, Clerk-Comptroller of Kingston, and Mr.

Noble the Personnel Officer of the Municipality of

Metropolitan Toronto. Now, this committee held

several meetings and I believe it was the opinion of

the committee to start with that to adopt these

resolutions that came before our general meeting calling

for compulsory arbitration for union negotiations or

settlement of contracts was not a satisfactory arrange
ment and that there had to be something else done

rather than immediate compulsory arbitration.

This committee held two meetings and I think in discussing this there would be three phases of the problem that we would like to put before you.

One phase - and I would say a little bit about it and then ask any of the other members of the committee to add to it - was to illustrate the difference between negotiations with municipal employees and employees who are in private industry. Secondly, we would like to point out to you the difference of the service that we provide to the community in that we provide services that are almost a monopoly. If water is not supplied to a community no one else can do it, as an illustration and, thirdly, we have outlined a proposal which we made to the province for suggested legislation that we felt might help in solving our problems.

I might take first the differences between the negotiations being carried on with municipal employees, as compared with employees in other private fields. I think the first - and they are through this brief here in bits and pieces, but

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municipal councils are elected. The members of council are elected and they are in for short periods of time, sometimes they are re-elected but there is a break in the continuity of the management body every year or every time there is an election. It is three years now in Metro Council but, generally, one or two years throughout the province. There is a break of continuity there so that in many cases municipal councils are ill equipped to meet the union bargaining group who are well organized and a very efficiently operated group of people with good staff and well trained people in labour relations. So that there is an inequity that is common to the municipal field in negotiating experience.

Many times - and we find this throughout the province - many of the people who are negotiating
on councils are members of unions in their own private
field. This, I think, is evident in several cities
in Ontario - Windsor, Oshawa, St. Catharines and
highly industrialized cities. I know several of them
personally who are presidents or executive members
of their union and then they have to sit on the other
side of the table at the same time as they are members
of their own union and executive members and they have
to sit negotiating with unions and this, itself, makes
it, I think, difficult to have ---

THE COMMISSIONER: It should make them more broad minded.

MR. POLLOCK: Set a thief to catch a

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thief, I suppose.

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MAYOR CAMPBELL: It is one of the problems of the field of municipal negotiations.

THE COMMISSIONER: They will see themselves as others see them.

MAYOR CAMPBELL: Another point is that when elections are coming along, the members who are sitting at the council for the municipality know that within a few months, and sometimes within a few weeks, they have got to go to the electorate who are the union members, many of whom are union members, to be elected, and so we even have cases where we think maybe union negotiations are slowed up or neglected until it is almost election time before we get down to the wire to settle, knowing that members of council have to come up for election and be elected by the people that they are negotiating with for these wage settlements.

There is another probably important problem. In labour negotiations with industry, it is always the profit limit and I was riding back in the plane one day from Ottawa with a labour negotiator and he said, "I have just had to tell my union that they can't ask for higher wages because I have gone into the financial situation of this company that they are working for and the company can't afford it". Now, this profit limitation does not apply in the same way with municipalities because unions can just say, "Well, if you need the money just raise the taxes and collect more money". And, so, this profit factor does

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that when elactions are coming along, the armona what electing at the council, the remissional to know that a few months, and curvished within a few months, and curvished within a few months and curvished within a few stay mang of the checken action manders, mang of whole are suited menacing to be cleated, and of we even have actes where we shill be made, as, relations are alowed as out to call the actes of checken for the council to the actes of a council to the council of action and be a council according have to come up for a redicting with contact of the council have to come up for a redicting with contact of the council that and the council was the council to the council that and the council and the council and the council that and the council that and the council that we see the council that and the council that with council that we had the council that and the council that the council that and the council that the council that and the council that the co

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not come into the negotiations as it does in private enterprise.

THE COMMISSIONER: But the tax does?

MAYOR CAMPBELL: Yes.

THE COMMISSIONER: Aren't the members of the council exposed to be influenced by that?

MAYOR CAMPBELL: Yes, this is true, but it doesn't have the same application, I don't think, as a company profit.

THE COMMISSIONER: No doubt, it is a different force, a different factor?

MAYOR CAMPBELL: As this labour negotiator told me, he said, "I can't recommend to my union that there be an increase because I know the company can't pay it, they would go out of business, they would go bankrupt".

THE COMMISSIONER: We are rapidly approaching the situation which is claimed to be a similar one in the municipal field?

think I touched on it a little bit, is that the services that we provide are a monopoly and no one else - if our people do not provide the service then there is no one else that can do it. This may happen to some degree in private enterprise but generally not. If somebody doesn't provide cornflakes of one variety, somebody else does, and so it does not deprive the public of a service if it is not provided by the one authority.

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1	know whether Mr. Noble can add to this or Mr. Onley,
2	this is singling out the differences that we feel that
3	we are in a different position in negotiations.
4	MR. POLLOCK: On the question of
5	monopoly of services, that would apply to many of the
6	functions of municipal government, but there are others
7	that can and, in fact, in some cases desire to be
8	contracted out?
9	MAYOR CAMPBELL: Yes, garbage collection
10	would be one.
11	MR. POLLOCK: And I think even road
12	maintenance and things like that.
13	MAYOR CAMPBELL: It does not apply to
14	all the services, but I think generally speaking it
15	would apply to most of the essential services.
16	MR. POLLOCK: Well surely like water
17	and sewers.
18	MAYOR CAMPBELL: Fire, health and
19	police protection.
20	THE COMMISSIONER: And they affect
21	the whole public?
22	MAYOR CAMPBELL: Yes.
23	THE COMMISSIONER: It is not a limited
24	group?
25	MR. NOBLE: There is one point there,
26	even in areas where we have contracted/operations, if
27	there is a municipal strike since the contractors'
28	employees are invariably unionized employees, they
29	will not cross the lines either, so we lose their

services in addition to the services of our own staff.

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THE COMMISSIONER: And any action taken to strike is aimed at the public, to coerce the opinion of the public, to compel action by their representatives of some sort?

MR. ONLEY: I think, if I may, there is a very essential difference. It doesn't hurt the municipal company, if you will.

THE COMMISSIONER: No one is losing income from it except in the form of additional taxation?

MAYOR CAMPBELL: I have known municipalities to save money when there was a strike because they didn't have wages to pay. As far as the municipal corporation is concerned dollar-wise within the corporation, they are not put in that position but the one who suffers is the public.

THE COMMISSIONER: Oh, yes, undoubtedly.

MAYOR CAMPBELL: Now, on to this second phase of the matter of essential services - and I have touched a little bit on it, in our field we are the only body that provides many essential services and it has already been recognized and part of our responsibility we feel we are responsible for and that is fire. Fire now is handled by compulsory arbitration, police by compulsory arbitration and recently hospitals compulsory arbitration.

THE COMMISSIONER: Are the hospitals frequently under the control of the municipal council?

MAYOR CAMPBELL: All our senior

citizen nursing homes and some municipal hospitals.

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There are municipal hospitals throughout Ontario.

hospitals?

MAYOR CAMPBELL: This would not apply

THE COMMISSIONER: You have private

in private hospitals.

THE COMMISSIONER: But you do have

them?

MAYOR CAMPBELL: Yes, but there are a number of hospitals which are municipally owned and controlled. We find it in Metropolitan Toronto it is in our nursing homes, in our homes like the Riverdale Convalescent Hospital, they are - well, Riverdale I should not bring it because it is a little bit different, it is under a board too, but we do have our own nursing homes.

The other question comes up then, how are some services considered essential? We feel that water is another very essential service. You can say, "Well, if fire is an essential service and requires arbitration, then the production of water does because there would not be much chance of fighting fire if we didn't have water", and also, it is my opinion that we could do without many services but we would find ourselves in a very inconvenient position if we didn't have water. Many of our heating plants and many of the systems of air-conditioning and all that are so dependent on water. We are told that if a break came in our water system, if our water was shut off here in the Metropolitan area and any air gaps get in a water main, that the damage would be very

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great and systems that would be depending on certain water pressure could be damaged to a very great extent. So, water is a very important essential in any large and, to a lesser degree, in the smaller communities.

Then, you get into the field of what sometimes might be an essential service in the winterremoval time, I suppose, snow/is essential because if you couldn't remove snow you could completely tie up a city in a snowstorm. But, yet, at the same time. maintenance of roads and general upkeep of streets and that would not necessarily be too much of an essential service in the city. We could live a couple of weeks or so without too much maintenance on our roads and the other comparison might be that in the wintertime garbage might not be a serious problem. It is frozen and cold and the garbage doesn't decompose, but in July and August, garbage could be a very serious problem.

THE COMMISSIONER: They had an experience of that in Vancouver?

MAYOR CAMPBELL: Yes.

MR. POLLOCK: But in both those cases it would depend, it is more flexible: You could say, well, a small snow won't make that much difference or garbage for a couple of days won't make that much difference, but water, you need water all the time.

MAYOR CAMPBELL: Yes.

MR. POLLOCK: I assume you look into water sewage, do you?

MAYOR CAMPBELL: Yes, water and sewage

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disposal, because if sewage disposal was stopped - well, there are some plants that would open the gates and just let the raw sewage without any treatment go into the lakes and we would be in very serious trouble.

MR. POLLOCK: Don't we do that anyway?

MAYOR CAMPBELL: Not intentionally.

This is another part where we feel we are in quite a different position. On page 9 of the brochure, we have rather summed up this position in the paragraph above paragraph 4:

"The Committee did, however, agree that the over-riding principle to be observed in determining what is an essential service was that the protection of the public health,

welfare and safety must be the criterion."

We feel that that sums up the position of what we consider as essential services, without spelling them out, because it may be different in different parts of the year.

MR. POLLOCK: But you would not have any difficulty in at least the first four that you mentioned - fire, police, hospitals, water and sewage?

MAYOR CAMPBELL: No, I think you could say that they are essential services at any time.

MR. POLLOCK: And I suppose you would add to that, Hydro?

MR. NOBLE: Hydro and health, certain

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MAYOR CAMPBELL: I must confess we

went through a strike for 17 days on hydro and had no problems, but we were lucky, we were very lucky. Our management staff were able to keep it going. If we had had an electrical storm or a wind storm or any unusual weather conditions it would have been a crisis, but without having that - there again, it is difficult to draw the line between what is an essential service.

THE COMMISSIONER: Just what were the conditions of the hydro strike that you mentioned? MAYOR CAMPBELL: The men on the

Scarborough Public Utilities Hydro and Water went on strike and they were out for 12 days.

MR. POLLOCK: They are not charged with any responsibility for generating, just the distribution and maintenance?

MAYOR CAMPBELL: Just the distribution and the distribution system was in a good state of repair.

THE COMMISSIONER: You just prayed that it would continue?

MAYOR CAMPBELL: That is right. We did have one or two water main breaks, we did have one or two hydro line breaks and our supervising people were able to go out and make the repairs and no one suffered, but if we had had a wind storm or an ice storm or heavy rain or anything, we would have been in a crisis in a matter of minutes because we would not be able to cope with that.

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MR. POLLOCK: Mr. Noble, you mentioned health. What health services?

MR. NOBLE: We operate and maintain five homes for the aged and if the men in the homes were allowed to go on strike, for instance, Lambert Lodge has some six hundred residents, that certainly is a situation that we could not look at calmly. The provision of insulin by the local Department of Health to diabetics, areas such as that, should certainly be covered in the event of a stoppage of work.

MR. POLLOCK: They could get it in an emergency at a hospital, couldn't they?

MR. NOBLE: They could if the sources were permitted to distribute it to hospitals.

THE COMMISSIONER: They are maintained at least, in part, by taxation?

MR. NOBLE: Totally. There is a subsidy from the Provincial Government of 70 percent of the cost of operation.

THE COMMISSIONER: I thought there might be individuals who were able to pay something.

MR. NOBLE: Some of them do pay token maintenance, but there are few able to pay the total charge.

MR. POLLOCK: Of course, there may be some question as to whether or not they are covered by the Hospital Labour and Disputes Arbitration Act?

MR. NOBLE: We were in the process - we have two legal opinions on it both of which vary, so we don't quite know where we are going on that.

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1	MR. POLLOCK: You have two legal
2	opinions
3	MR. NOBLE: One casts some doubt and
4	we are in the process of asking the Attorney General
5	to make a decision.
6	MR. POLLOCK: You are lucky you only
7	have two.
8	MR. NOBLE: We only have two lawyers
9	MR. POLLOCK: Even in those circum-
10	stances. If you get two lawyers you are liable to ge
11	five opinions, but I notice that the Hospital
12	Arbitration Act applies to whether or not the hospital
13	in the broad definition is operated for private gain
14	or not.
15	MR. NOBLE: And is governed by the
16	Homes for the Aged Act.
17	THE COMMISSIONER: And you have five
18	of those institutions?
19	MR. NOBLE: Yes, we have.
20	THE COMMISSIONER: And they make up
21	600 altogether?
22	MR. NOBLE: No, they do not.
23	THE COMMISSIONER: There is only one
24	of 600.
25	MR. NOBLE: There are two in the
26	500 to 600 area. There are two in the 300 and 350
27	area and two in the 300 area.
28	MR. POLLOCK: I generally lump those
29	into hospitals.

MR. NOBLE: That would cover it, yes.

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MAYOR CAMPBELL: This is referring only to Metropolitan Toronto. This will be repeated several times in other cities in Ontario which we represent here.

THE COMMISSIONER: Those are all Metropolitan Toronto?

MAYOR CAMPBELL: Yes, these are Kipling Acres, Bendale Acres and so on that we have built in the last few years.

MR. NOBLE: I might add a little to that in the same area that we also operate in connection with the Metropolitan Housing Company, low cost housing for aged people who are able to maintain their own apartments. We do service those, heat, water and everything else. If the boys in that area strike, we are in the same position with the residents of the low cost housing.

MAYOR CAMPBELL: Have you anything to add to the matters of essential service, anyone?

Now, we come to the third part of our brief, and we attempted to put down some recommenda tions and to stress an opinion as to the weaknesses of the present conciliation procedures. On page 10, the recommendations to the municipalities are not so much for legislation, they are more for ourselves, that we feel that if we could bargain in regions because what happens when one union settles or bargains, if they make a certain concession, then immediately that is stair-stepped over to somebody else and one union waits. As it has happened, we have shuffled

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around and it delays negotiations and delays settling because each group is afraid to settle for fear the neighbouring municipality will get something a little better and this tends to delay the settlement in a community. So, among ourselves, we have tried to say well if we could solve certain basic things within the contract for a region, if all the metropolitan area could get together and say, "Now, in wages, we are going to get so much of an increase".

THE COMMISSIONER: The conditions are more or less the same?

vacations, if we would all agree to give so many days statutory holidays and make it uniform over the area, then we are not bargaining one against the other and the hours of work, the standard hours of work. Now, along with these sick pay and fringe benefits, if we could get uniformity in regions on that, then there would be additional clauses in each of our contracts to take care of local matters. We are suggesting this, I don't know whether we will make any progress on it or not this year, I hope we will, since Metropolitan Toronto now just has five boroughs in the one city, we might do some work together and try to all get together on certain basic things.

THE COMMISSIONER: Is the mode of arbitration prescribed by statute?

MAYOR CAMPBELL: Other than the fire and police, there is no arbitration.

MR. POLLOCK: And hospitals?

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MAYOR CAMPBELL: And hospitals. There is no arbitration at all, it is all voluntary settlements.

The second point here, to ourselves again, is that we should use trained personnel in doing our negotiating. Many municipalities will go into negotiations with amateurs or inexperienced people sitting on one side of the table with very capable and very experienced people on the other side and so we are saying to our own people, "Try and have experienced people carry on your negotiating."

Now we come to the other point which I think you will be more interested in, and which we think you will be making recommendations on, and that is the problem with the conciliation procedures. We find that conciliation procedure is such, and the law is such that it permits a great extension of time. You start to negotiate in the spring or January or February and then there is reason for putting it off and it drags on and then you will make application and between one and the other, or both, decide that you will have to go to the Labour Minister's office. You make an application there and you may get a mediator sometime soon or within a reasonable length of time, but then it is put off for another week and another month and finally you say, "Well, maybe we should have a conciliation board", and by the time we get the conciliation board appointed and by the time that they can find time to have their hearings, it drags on and invariably it goes on until October before we get a board order and,

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in many cases, that is the month before election time.

Now, we would like to see if this conciliation is going to continue that there be certain limits of time and that we would shorten up this extension of time so that we could get down to business and get down to a settlement. I don't say there is fault on one side, I would say there is fault on both sides sometimes. One or the other may think of "Well, it is to our advantage to put this off a little bit later and not get at the business of settling".

THE COMMISSIONER: What would you suggest?

MAYOR CAMPBELL: Oh, certain time limits.

 $\label{the commissioner} \mbox{ The commissioner: Well, just take}$ the actual matters of time.

MAYOR CAMPBELL: There are certain times in the Act now that say you must do something within ten days or something.

MR. NOBLE: All of which may be extended with the permission of the Minister of Labour. There is no finality. It may be extended with the consent of the parties or of the Minister.

MR. POLLOCK: But your concern is one that is peculiar to the fact that pressure is put upon the elected officials just before election comes up and you might be able to alleviate that by extending the term of office or providing that contract renewal or negotiation comes up at a time when there is not an election.

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MAYOR CAMPBELL: That is partly it, but I sit in on, I think, seven union contracts that I, myself, have to take part in settling and when we are in the year of negotiation, we spend much of our time sitting at meetings trying to come to agreements on these things, and there doesn't seem to be any finality to them.

THE COMMISSIONER: Now, let us just try these out between ourselves. It has been suggested for instance, that at the moment of termination of the agreement the strike right arises. You go on after that by negotiation. If you can't reach negotiation with the shadow of a strike over you, why you can do what they do now, go on strike. What would you say to that, whether at the end of the agreement or a specific time after that say, "Now, here is the limit of time during which a strike is prohibited"?

MAYOR CAMPBELL: I have to be careful here, because we are within the scope of our report here and I can very well speak as an individual but in this report that was not covered.

THE COMMISSIONER: They did not consider that?

will see as you go through this report here, it doesn't provide for a strike in any case in this recommendation. It provides for legislation here that there won't be strikes. It provides in the end, after all other bases for trying to get a settlement have been exhausted, that then, by Order of Council by the Government of

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Ontario they could call for compulsory arbitration.

THE COMMISSIONER: Well, would you want some date fixed at which that situation would arise specifically?

MAYOR CAMPBELL: I think as we go through this procedure, I will point out to you what the deadlines are that we are setting. That first point there is the slowness of the present conciliation procedure. One of the reasons that the conciliation hearings and boards are held up is that there is a lack of qualified and acceptable people in the Province of Ontario to hear labour problems, and it has been left largely to the judges and we feel ---

THE COMMISSIONER: They have not acted as conciliators?

MR. NOBLE: They are out now, this has been changed.

MAYOR CAMPBELL: Mr. Noble says there has been an amendment to the Act that we don't even have the judges available now.

THE COMMISSIONER: They are not forbidden, but the conditions under which they can do it have been changed.

MAYOR CAMPBELL: When I say qualified that is one thing, people who know labour laws, and people who are trained and able to bring about settlements and also acceptable, and by "acceptable", I say people whom labour and management feel that they can trust to be a chairman.

THE COMMISSIONER: Then there must be

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some able men whom you won't accept?

MAYOR CAMPBELL: I expect there are.

There are some that labour might feel, "Well, he is a pro-management man", and I think, likewise, I can't name anybody but where labour might agree to it but we might say, "Oh, he is pro-labour, he is an old labour organizer and he is pro-labour". We would like to see that the judge is neutral on matters and will look at the problem objectively.

THE COMMISSIONER: You are favourable to the continuance of the first stage of conciliation by a conciliator?

MAYOR CAMPBELL: Yes.

THE COMMISSIONER: Now, what about

the Board?

MAYOR CAMPBELL: Yes, but we are saying here to the province that they should do something that will provide more trained and acceptable people in the field which will expedite the conciliation boards.

THE COMMISSIONER: I think we appreciate that, that there is not a surplus of those people.

MAYOR CAMPBELL: Now, we feel - and this is one thing that the province has done since this report has come through - unofficially and not by law, that before we go to conciliation boards we feel that there is a place that a mediator could be used for and put it right in the Labour Act, a mediator stage.

THE COMMISSIONER: There is a provision

for a mediator now.

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MAYOR CAMPBELL: But they have not any status. Under the conciliation board, you have the procedure whereby you get the conciliation hearing and a conciliation officer hands down his report and until that report is in the hands of the Minister and seven days passes, there is not the right to strike. That is the point, I say the mediator does not come into that section of it. After you have got your report down ---

MR. POLLOCK: It is now within the discretion of the Minister to either appoint a conciliation board or a mediator. The same time limits operate.

MAYOR CAMPBELL: All right, supposing this takes place and the procedure that we usually follow, the conciliation board has handed down its report and the seven days has gone by. Then, there is the right to strike. We say that that should not be, that there should not be a right to strike. We say that the strike. We say that from there on the law should be provided so that the mediator could take over.

MR. POLLOCK: Well, they provide for that without even having to go through the conciliation board step by appointing a mediator to do all the things right at that stage.

MAYOR CAMPBELL: Yes, but can a mediator write a report that has the same authority as a conciliation board?

MR. POLLOCK: Yes.

MAYOR CAMPBELL: Well, it comes in

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after that report whether it is written by the mediator or the conciliation board. You come to your seven days after the board report has been legally put in the hands of the Minister. The eighth day comes, there is the right to strike. That is the day we are concerned about now. At this stage, in the following through of the negotiations, the negotiations can break down and a strike can take place. That is the day we are worried about our essential services.

THE COMMISSIONER: Of course it is.

MAYOR CAMPBELL: And, of course, that is the day we want something else to take place and stop

THE COMMISSIONER: But you started out to talk about doing away with the postponements with the stretching out of the time, and now you want to stretch it out further?

MR. ONLEY: I think the stretching out of the time is the time that it takes to reach stage where you have the report of the conciliation officer or the report of the conciliation board. That is the time that is extended.

THE COMMISSIONER: Sometimes there is delay in conciliation boards, no doubt, because of the difficulty of getting the chairman and matters of that sort, that is true. But, you can avoid that by agreeing on a mediator. That requires that both sides accept him. I suppose that may be difficult?

MR. ONLEY: That is difficult, too.

MR. NOBLE: This is one of the reasons

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why mediators have been very little used in the Province of Ontario because we could not agree.

THE COMMISSIONER: You must generate more confidence in your fellow citizens.

MAYOR CAMPBELL: We would like to see the legislation so prepared that there would not be this break at the end of seven days, that there was not any legal status for anyone at that place and that they could not go on strike. What we are proposing is then that a mediator take over and he take it under control and if they then can't come to any agreement, then we come to section (d).

THE COMMISSIONER: But you don't agree upon a mediator?

MAYOR CAMPBELL: At this point, we are up at the wire where we might have a strike. We think that is the place where the government should say, "It is in the legislation that a mediator will be named".

THE COMMISSIONER: Well, you could put that away back and say "The moment the contract ends we want a mediator."

MR. NOBLE: I think what is causing the difficulty is that this was prepared before the Labour Act was revised, and the mediator, as you have indicated, is now available at the first step, immediately after the conciliation officer.

MR. POLLOCK: And, as a matter of fact, even in lieu of the conciliation officer.

MAYOR CAMPBELL: You see, these things

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are permissive and all the way through this, in this report, we were faced with two resolutions from our general body saying that they wanted us to ask the government for compulsory arbitration and our committee didn't agree with that, but we had to come up with an alternative. What if it is not compulsory arbitration so we said, "Follow the procedure to the conciliation board and now it could be 'or mediator, under a procedure of law." After the seven days has passed when the report has been presented and normally under the law now strike could take place legally on the eighth day, this is the point where we are saying now, we want legislation so that there isn't that permissive date to strike then, that there be another step, another stage, and how it is handled we did say that at this time that a mediator could handle it at that stage and he would take it in hand and then we say that it goes right to an Order-in-Council of the Cabinet where the Prime Minister, the Government would have to step in and the government would then, through the Minister of Labour, I expect, look at it and say, "Is there a crisis?" "Is there an emergency in this area?" and then we have suggested down here a number of things that the Minister of Labour would have the legal right to do. First of all, he might order them, if he thought there was any chance that they had not been discussing matters in the proper way, back to mediation or conciliation. If he didn't think that, he might say, "All right, I am postponing any action until we can get a fact finding commission, there is

difference of opinion and they don't agree", so he might say, "I am going to ask for a fact-finding report on the conditions here", or he might say, "All right, now, I will let you go on strike, but you must keep the water flowing in the pipes"and permit a partial strike. These are all possibilities. This is not new, it has been carried out in the United States.

MR. POLLOCK: It has failed in Quebec too.

MAYOR CAMPBELL: Quebec was a little different. Quebec had straight arbitration, but Alberta has got something of this nature right now.

MR. POLLOCK: Section 99, never been used.

MR. NOBLE: How about the State of Massachussets?

MR. POLLOCK: The government can step in and operate the plant.

MAYOR CAMPBELL: This is that a certain amount of service must be provided, that the hydro must be kept on, you can go out on strike but these things must be done.

THE COMMISSIONER: You would have to have arbitration.

MAYOR CAMPBELL: These are all different suggestions. We only put four different suggestions down that when you get down to the point after that seven days is passed and the next day you could have a strike and everybody could walk out, now how do you handle it? These are suggestions as to

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MAYOR CAMPRICE: This is to

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how it might be handled and in the end, after all this and there is no settlement and no agreement, then we say that the Province of Ontario government would order arbitration. After they had exhausted all possibilities of coming to an amicable settlement without arbitration, then come to arbitration.

THE COMMISSIONER: Now, what are you considering? I think it is necessary to separate those things which are looked upon as a situation for which a strike will not be permitted and those things for which a strike will be permitted. You deal with those separately because I think there must be an approach with different considerations in view.

MAYOR CAMPBELL: Of course, this is following what has been done when you took fire and made it arbitration, police and made it arbitration and hospitals and made it arbitration. Now, your question to me is: Do we extend that list and put water in there too and what other ones?

in the essential list, of course, it comes under a new strike mandate, but I am thinking of cases in which it is not good policy, for instance, as you have suggested yourself to forbid a strike. Take the clerks in civic offices and one thing and another, it is certainly going to be inconvenient, but would you say it is so essential as to justify a prohibition?

MAYOR CAMPBELL: No, we did not include them in this.

THE COMMISSIONER: Then, how are you

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going to handle that situation?

MAYOR CAMPBELL: Well, there again, it may be the clerks that you say are not essential but if the clerks go on strike and put a picket line at the front door of the office, then all your other people who are in essential services won't walk past the picket line.

THE COMMISSIONER: Assuming you can look after that situation, you have the clerks out and that is all.

MR. NOBLE: In certain areas, even the clerks in my opinion might be considered essential.

THE COMMISSIONER: They might.

MR. NOBLE: Because you have a large number of welfare recipients in the area and if we did not disburse welfare funds twice a month I think there would be considerable hardship occasioned by the lack of the clerks issuing bills or cheques. There are areas such as that where I would suggest we would have to treat them differently than the clerks in the clerks department.

MR. POLLOCK: We could probably extend that argument to almost any type of situation.

MR. NOBLE: Yes, our courts in the magistrates court, if the clerks aren't there the courts don't function.

MR. POLLOCK: Certainly, they will function without the clerks. I think you could say if General Motors threatened to strike you might need ambulances and they wouldn't make any more ambulances.

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THE COMMISSIONER: Assuming in him to a select that sinustion, you have the ending of the out.

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runber of welfare receivions in two area and if we did not discourse welfers founds which a continuity there would be considered by fordalls by distinct discourse is allowed in the classes including bills or check as after a law areas out a took where I must are as a continual took or that we are a layer to truck ones differently when the class and the latter than the class and the contract of the contract of the class and the class and the contract of the class and the cla

MA. POLLOCK: The country our out, ix

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MR. NOBLE: I am not suggesting clerks of the court. If there are no documents processed to appear before your court, then your magistrates court could not sit.

MR. POLLOCK: Well, I suppose the police could do that. In any event, we are at cross purposes.

THE COMMISSIONER: We will make certain assumptions. We will assume there is a strike. What would you suggest in the way of changes from the present procedure?

MR. ONLEY: I think if I may, Mr.

Commissioner, the essential of the problem is that
it is a subjective test on many occasions. As Mayor

Campbell mentioned, for instance, if the garbage men
decide to go on strike in the winter maybe for a week
or two it is no problem. At certain times, the water,
as was indicated, could be operated by supervisory
personnel for a limited period of time. I am afraid
that is the nub of the problem insofar as laying out
specifically what is essential. Normally, water and
sewage always is a very essential operation, but it
is the continuance of that service depending on the
circumstances whether or not the right to strike should
be taken away from the members of the bargaining unit.

MR. POLLOCK: If I could just stop you for a minute. As I understand what Mr. Campbell said before, all these recommendations that are made at the end depend on that on page 9, "...that the protection of the public health, welfare and safety..."

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That is the criteria?

MR. ONLEY: Yes.

MR. POLLOCK: If the public health, welfare or safety comes into danger, than in those circumstances compulsory arbitration ought to be imposed?

MR. ONLEY: Yes.

MR. POLLOCK: If it doesn't, then the fact that they are municipal employees doesn't really make any difference, they can go on strike and the municipality treats them in the same way as an ordinary employer?

MR. ONLEY: Yes.

MR. POLLOCK: As long as the quality of the services required is not essential to the health, welfare and safety of the community?

MAYOR CAMPBELL: But you have to have someone under the law, a written law, someone to decide when the emergency arises.

MR. POLLOCK: Quite, in your submission I suppose it is the Lieutenant Governor-in-Council?

MAYOR CAMPBELL: That is right.

THE COMMISSIONER: That is agreeable, but do you think by that means you eliminate all strikes from municipal activity?

MAYOR CAMPBELL: No.

THE COMMISSIONER: Well, in relation to them, what do you want to suggest in the way of shortening the time, or do you want it shortened?

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MR. ONLEY: Well, if we shorten the time, sir, we are referring from the time the contract ends from the time of the right to strike. It is in that area that we feel it is necessary not only for the matter of elections, but also from the interminable number of meetings that go on to reach the result where the right to strike arises, either you have a conciliation board report or, in this case, a mediator's report, an element we suggest requires correction to reduce the time, but once the right to strike comes, I don't think the matter of time is the essential, if I may say so, because then either the decision is made that the public health and welfare is affected and compulsory arbitration should take place or it is not. If it is not, then, to use the old phrase, they can "hit the bricks".

THE COMMISSIONER: I just wanted to get it clear because I thought when Mr. Campbell started this he was assuming that what he said applied certainly to all cases, that is, whether there was ultimately a right to strike or not.

MR. ONLEY: Yes, sir.

THE COMMISSIONER: If that is so, and you want to shorten time where there is ultimately a right to strike, what particular time do you think should be eliminated? Take the case where theremay be a strike. You have conciliation, you have the termination of the contract, you have the conciliation, you have the conciliation board, then you have the mediation coming in. Now, is that what you mean? Is

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Terente, Ontario that to be followed in the case of an issue which will 1 | 2 result ultimately in a strike or may? 3 MAYOR CAMPBELL: We are not suggesting that be changed: We are only suggesting that the 4 permissive right to extend the time during conciliation 5 procedure be held within a reasonable length of time. 6 7 THE COMMISSIONER: For all purposes and in all cases? 8 9 10 11 the question of a strike? 12 13 ten months. 14 15 and you want to get rid of them? 16 17 18 19 20 21 22 23 ments in conciliation? 24 25 26 27 28 29

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MAYOR CAMPBELL: Yes, that is right. THE COMMISSIONER: So that includes MAYOR CAMPBELL: Yes, it does. Sometimes these conciliation proceedings drag on nine and THE COMMISSIONER: Yes, that is so, MAYOR CAMPBELL: We could meet at the same place in three months where we ultimately meet in nine months, and that place in three months is the conciliation board report handed down. THE COMMISSIONER: What are the factors that generally contribute to this unnecessary extension of time? Generally speaking, you agree to postpone-MAYOR CAMPBELL: Yes, we do. THE COMMISSIONER: Well, why do you? What are the considerations that make you do so? MAYOR CAMPBELL: I think that one of the points is that there are a limited number of people who are qualified and who really want to be

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in our negotiating process and they are busy, they are all good people and they are busy.

and I think is a fact that you do have a delay where you go to the conciliation board where the difficulty is to get a chairman, but what about the conciliation itself? Has that been unnecessarily delayed in your experience?

MR. POLLOCK: That is at the conciliation officer stage?

MR. NOBLE: No, there has not been too much delay in the appointment of a conciliation officer, but, as Mr. Campbell has gone into in asking for group bargaining, we are dealing with 23 roughly municipal units in the area and the municipal unions are acting in concert, so they are not prepared to move in one. They contribute to a delay by going back, having area meetings of their local unions as to what we propose to do, and group bargaining. That is a factor that causes a portion of the delay and, as Mr. Campbell has recited, in our last round of conciliation boards we had the same board, the same chairman, the same nominees of the parties dealing with 7 municipalities, so he could only deal with one at a time. That led to a ten month delay. Those are some of the reasons for the delay.

MR. ONLEY: Further, if I may, if the conciliation officer is appointed very promptly, we get on to the conciliation stage in a fairly complex contract with a municipal contract in that it

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is not as though you were just bargaining for the garbage collectors. You have got a range right from ordinary labourer up to sub-foreman and sometimes above that.

THE COMMISSIONER: Couldn't you get agreements with these unions on those four or five provisions that are in all, wages, vacations and so on where you could accept those as standard?

MAYOR CAMPBELL: We would like to do that if we could over an area.

THE COMMISSIONER: Have you tried to do it?

MAYOR CAMPBELL: No, not yet.

MR. ONLEY: I think the reason for that is that on the part of Metropolitan Toronto there were until recently 13 municipalities and, as you may recall, there are 3 Lakeshore municipalities with a total staff, maybe, of 20 - that is an estimate only - and their situation is entirely different to what would apply in a place such as Scarborough with 300,000 population and a staff of 1,000 or more. Now, with the burroughs, five burroughs in the city, the possibility of such regional action is quite a fruitful field to venture on.

If I may, just getting back to the time of the conciliation officer, you have the situation and I am sure Mr. Noble has had it, I have had it many times, where the conciliation officer is rushed with so many conciliations going, he can sit with you for a day and then it may be two weeks or

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three weeks before he can meet again. He has already his calendar lined up to be up in Sudbury or Port Arthur. In one case last year he physically was unable to meet with us for two or three weeks. Now, that is not his fault, but then you meet that time and there is some other problem to getting back to the conciliation meeting again because they have to call a union committee meeting or a meeting of the membership and that has to take ten days and so on. I think the essential problem, if I may suggest, is that once the conciliation starts then it should go to the end of that conciliation just like a court trial in virtually all cases. At the risk of being repetetive, I am not criticizing the conciliation officer at all, he is under a very heavy burden of what you might call case load, and he just physically can't be there. Once you sit down across the table you go right through and come up with your recommendations.

THE COMMISSIONER: We have had a great deal of difference of opinion on the desirability of the conciliation board. What is your opinion on that?

MR. ONLEY: The opinion there, as has been becoming the practice in the department is that they are not recommending boards as a matter of course as once was the case, and I agree with that, sir.

The time for a conciliation board is not after you have finished conciliation, but after you have finished conciliation and there are issues that require to be determined, not just whether or not you should get 7 cents or 8 cents but real concrete issues as to

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jurisdiction, as to things like that where a conciliation board can sit down and enter into those limited areas and be of assistance to the parties, but not just another referee between the two parties.

MR. POLLOCK: Areas of principle?

MR. ONLEY: Yes, that is putting it very well.

MR. NOBLE: There is one point you made earlier on, Mr. Pollock, as to why we did not time our contract termination away from the election area. As you know, we can only control it for one year because the union will ask for a two year contract and if you are away from it they bring you back into the election year by asking and insisting on only one next year.

MR. POLLOCK: Unless you provide by legislation that no contract shall expire during the election year.

MR. NOBLE: There would have to be some such control, I agree. Another thing that causes trouble - and I don't know what the answer is to this - is in causing delay there is no cost to a union in letting a contract run ten months after termination because conciliation officers, conciliation boards invariably recommend full retroactivity.

MR. POLLOCK: Not invariably, Mr. Noble, 90 percent.

MAYOR CAMPBELL: They do it in the

MR. POLLOCK: Even when the delay is

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on the part of a union?

MR. NOBLE: Yes, this has been our experience and they will still establish boards for municipal operations where they are not establishing them as readily as for industry. They seem to have a different feeling with respect to a municipal dispute. I often think they think the politicians are ducking their responsibility.

MR. POLLOCK: Many times it is a help to the department, that it is easier for a politician to make a decision if you get a decision of a conciliation board to back him up.

THE COMMISSIONER: Do these matters of election actually interpose themselves in the settlement of these disputes?

MAYOR CAMPBELL: Yes.

THE COMMISSIONER: And on whose part primarily, the elected people or the employees?

MAYOR CAM PBELL: I don't know, but it comes to the end of a year and negotiations go on all year, elections are normally in November, and when it gets up to October you --- and I have seen it happen year after year or time after time -- the conciliation board report would come out in September or October and then the seven days goes by, so then you are in the period when they are free to strike, free to lockout, and for the last two contracts that we have signed we have signed them within a week or two weeks of nomination day, and it has happened quite regularly. Last year the strike in Metropolitan

Toronto, as you will remember, was only a week before nomination day in November.

MR. POLLOCK: I suppose it is a powerful weapon.

MAYOR CAMPBELL: I don't say that anybody worked this out or planned this, but where you start negotiating in January and it is delayed and delayed and delayed it is October before the report comes out. It is just the length of time it has been taking.

MR. POLLOCK: Have you given any consideration to the composition of the arbitration tribunal that is going to decide these issues in the obvious areas that are going to result in compulsory arbitration, those areas that are not settled and where striking is prohibited, including Hydro, which, although it is not presently on the statute, does not take too long to print off a few Acts in relation to Hydro employees, police and fire, police are there, hospitals are now there. What type of tribunal do you conceive? Have you given that any consideration?

MAYOR CAMPBELL: We have not. I might say as far as the arbitrations that have gone on with the police and fire departments, I know more about the fire because that is local ---

THE COMMISSIONER: Do these agreements, are they constantly increasing in size?

MAYOR CAMPBELL: Do you mean ---

THE COMMISSIONER: How many pages of agreement

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MAYOR CAMPBELL: They are quite a good-

sized book.

MR. ONLEY: 30 foolscap pages, sir.

THE COMMISSIONER: They blow up in importance to that of the Treaty of Versailles or something of that sort.

MAYOR CAMPBELL: It is quite more important. It is quite some size.

MR. POLLOCK: More important to them than the Treaty of Versailles, I suppose.

THE COMMISSIONER: And most of it is full of non-essential detail.

MAYOR CAMPBELL: Well, they feel it is essential.

THE COMMISSIONER: But it seems to me it would cause a period of delay to the so-called negotiations with details of that sort.

MAYOR CAMPBELL: I have seen us debate, I shouldn't say argue, because we have always been on good terms with our people and we have good relations with our union

THE COMMISSIONER: Then you will have to put up with the delay.

MAYOR CAMPBELL: I have seen us debate over a phrase for two or three hours time after time, over the adjustment of wording.

MR. POLLOCK: Well, it is those words on which the arbitration decision and interpretation hangs, and if it turns differently against you, you eproperson and the Hard Market Are

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police.

MR. NOBLE: Yes.

might as well not have the clause there.

THE COMMISSIONER: I suppose you will have authority on words and phrases too. Australia is now a highly-civilized spot. Those are all determined by a court, and I don't think you will find such delay as that in quibbling over words.

MR. POLLOCK: Getting back to my question, Mr. Campbell, you were just about to answer.

MAYOR CAMPBELL: As far as fire is concerned and who is selected as an arbitrator, we have not very much to say about it, but I have not heard too much complaining from anybody (Maybe some of the other towns have) from anyone as to the results of the arbitration that has taken place on the firemen.

MR. POLLOCK: Even the ad hoc nature of the appointment of the board where people do not have any opportunity to engage in a continuing type of research.

MAYOR CAMPBELL: Have you heard any complaints from either the firemen or the municipal people about the firemen's arbitration not being a fair decision?

MR. NOBLE: No, but I think the opinion has to be qualified by the fact that we have probably more in than /any other situation used county judges as the chairmen.

MR. POLLOCK: They use them as well in the

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MR. POLLOCK: And we have heard today that the ad hoc arrangement as far as police arbitrations are concerned is not satisfactory to either of the two sides. They would prefer a more permanent tribunal.

MR. NOBLE: I don't know who was making their submission, but that has not been our experience with the Police Commission of Toronto. We have been satisfied with them. In fact we would prefer to have a judge as chairman of a police or fire board, particularly police because of the nature of their operation.

MR. POLLOCK: Made by the Association of Municipal Police Governing Authorities of which the Municipality of Metropolitan Toronto is a member.

THE COMMISSIONER: What about the labour unions? Do they have the same view?

MR. NOBLE: Well, they, of course, object to the board. They are not impressed at all by the boards, but they more or less are bound by them in the areas we use the boards in.

MR. POLLOCK: I am not suggesting that you ought to have somebody else other than a particular individual, a judge or whatever you want to call him.

MR. NOBLE: It has to be someone with status.

MR. PDLLOCK: He has to have the proper qualifications.

MR. NOBLE: And status, that is important.

MR. POLLOCK: We will give him the status. Surely you have someone in your great organization You

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can design a title sufficient to give anyone status.

MR. NOBLE: The problem would be to get the provincial government to pay him in accordance with this title.

MR. POLLOCK: Oh, well, we will do that.

MR. NOBLE: There is one other point I would like to say a word on where Mayor Campbell pointed out the inequity in his thinking with respect to the bargaining position, the qualification of counsel as against experienced negotiators where it does occur. I think this is illustrated by the high rates that are developing in municipal services where in Windsor as of January the 1st, 1968 you will have the highest labour rate in Canada, not the highest rate in municipal service, \$2.96 for labour, which is the highest rate in Canada, but I don't think municipalities or any government institutions should be leading the wage parade.

THE COMMISSIONER: What do you mean by the highest rate?

MR. NOBLE: The highest hourly rate for labour now in Canada.

MR. POLLOCK: I suppose they don't have to lead, but if they don't lead they don't get any employees.

MR. NOBLE: Well, I think there is a relative position where we should make sure that we are, probably the bottom half of the top third --- in that area, because our rates don't go down when the industrial rates do go down.

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MAYOR CAMPBELL: In our field there is security. There is security in the municipal field that I don't think you find generally in industry, and fringe benefits. Some industry might be comparable with us in fringes, but security is the big thing in the municipal field.

THE COMMISSIONER: And security now in what respect?

MAYOR CAMPBELL: Well, as long as a man is doing a reasonably good job there is not much chance of us needing less people in the municipal field, but in industry as the product's popularity goes up and down or the success of the business goes down the man could find himself out of work, and he could have built up a pension or he could have built up fringe benefits and then the company says, "Well, we don't need you any longer", but this does not happen in municipalities.

THE COMMISSIONER: In your view there is a permanence to employment in municipalities that you don't get in the ordinary run of private industry.

MAYOR CAMPBELL: That is right.

THE COMMISSIONER: It seems to me that that is so, but it was very strongly challenged a few days ago. I would like to know what all you gentlemen have to say about that.

MAYOR CAMPBELL: It is always a humorous point in the municipality that no one ever gets fired in a municipality as long as they are doing a fairly good job, and even sometimes if they are not

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doing too good a job they are shifted into something else and so they are still there as long as they wish to stay on their own, but this I don't think is true in industry from what I hear, that it depends on the success of the company. They may keep them on and many people do stay on for a long time, but I don't think that the percentage that stays on is as great as that in the municipal field.

MR. POLLOCK: You say there is not any likelihood that the size of the working force in the municipal field is going to be reduced. It was pointed out the other day by the union representatives that there are areas where a whole operation is contracted out and garbage collection people are no longer needed. Certainly they are not kept on, are they?

MAYOR CAMPBELL: We rightly or wrongly have a clause in our agreement with them, I am speaking personally now of our own municipality, stating that we will not contract out work which will cause the dismissal or loss of position of any of our employees.

MR. POLLOCK: But that is by contract, that is the same as in many industrial situations where they have the same clause in the contract, but by virtue of the fact that you are a municipality compared to an ordinary company, there is not any greater security.

MR. ONLEY: Well, if I may I would suggest there is because there are very few cases where

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contracting out occurs. It is possible to do that, to have your garbage collection contracted out, but there are few, if any cases. There are two kinds of permanence. One which is most important is if a person is a civic employee they are not as likely to be fired for not being as competent as they might be as somebody in a private industry. The second kind of permanence is ----

 $$\operatorname{MR}.$$ POLLOCK: Because there is not the profit measure.

MR. ONLEY: Not the profit measure and not the pressure there. And the second kind of permanence is more important in that two equal men or women working in public as against private enterprise in the case of the public enterprise the garbage has got to be collected good times or bad, to the roads have to a reasonable extent be repaired, the water has to be kept up in good times and bad, and whereas, for instance, in the last depression you had great layoffs in private industry and some in public industry you had to still keep a measure, as of Mr. Mayor referred to / this monopoly services which had to be provided.

MR. POLLOCK: But I think in the municipal enterprise --- and here I am thinking of Metropolitan Toronto and the larger areas with which I am familiar --- the influence of the municipal organization spreads. It is spreading every day. They are going into different areas which were always private enterprise areas and in those areas

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which have been taken over the security of tenure is probably more limited than in the traditional clerk of the council or anything like that, the civil servant, so to speak.

MR. NOBLE: Before the garbage was contracted --- I am speaking of Ottawa and Kitchener which are the two major Ontario cities which have gone into this operation --- there were conditions protecting the jobs of the employees involved in both areas.

not behind you this tremendous pressure to show a steadily rising rate of profit. Your work is work that must be done and there is a greater liberty of action in relation to what was spoken about, the employees' shortcomings or something of that sort. You deal more with it in almost a family way.

MR. DUNBAR: I myself was connected with the automobile industry in Windsor. I am more familiar with the measonal layoffs you get in the automobile industry and the layoff you get on a decrease in sales. It has only been in the last two and a half years in Windsor, my homecity, that we have seen automobile employees staying on for longer periods of time than previously. Every year it was hire somebody and lay them off, hire somebody and lay them off, in connection with sales. All the other supply industries are the same way.

THE COMMISSIONER: And certainly in what you could call your civil service you do have a permanence surely of officers of the city. Take the

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city hall of any large city: what turnover is there that give in that?

Doesn't / a permanence of employment?

MR. NOBLE: We have a distinction in the service, those whom we need permanently and they are permanent service employees, our seasonal parks people come on, they are on for eight or nine months and go off, but this is a seasonal job, but in one of our large unions, our 1965 turnover was 4 percent as against in comparable activities outside running from 10 to 15 percent.

MR. POLLOCK: Recently in the newspaper there was a story about some gentleman who would not take welfare.

MR. NOBLE: City of Toronto. Here again you have that situation. I was with the city before I went with Metro. They used to have seasonal activities, they were on parks with the outdoor rinks in the winter, and they were on the streets for the summer, street repairs and street cleanups. But now you are on emergency service in the winter works and in the union agreement there is service on winter works service which does not count for seniority, so the service is broken every year on layoff. This is his difficulty.

THE COMMISSIONER: But the seasonal employment becomes permanent.

MR. NOBLE: The seasonal employment are the areas ----

THE COMMISSIONER: But they are permanent in the sense that they recur every year and the same

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people are employed.

MR. NOBLE: That is correct and in that process we, by our union contract, are required to advertise every vacancy throughout our service so that these seasonal services are largely the sources from which we draw our permanent service employees.

THE COMMISSIONER: Yes, permanency in the sense in which I am using the term does not mean continuity, but it is the cyclical permanence.

MR. POLLOCK: Which is the same as the cyclical permanence of the automobile industry.

THE COMMISSIONER: Well, it isn't seasonal but it may be cyclical.

MAYOR CAMPBELL: Well, thank you and we are very pleased to have had the opportunity to make these presentations to you. We feel that we would like to see some changes and I might say that one of our committees was Mr. Little of the Canadian Union of Public Employees and we invited him in to sit with us and he agreed with these recommendations here. There are many union people in our association and this was adopted unanimously by our people. This, I think, speaks well for them too.

We thank you very much.

---Adjourned sine die.

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